

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

Date: Monday, 8 March 2021

**Committee:**  
**Southern Planning Committee**

**Date:** Tuesday, 16 March 2021  
**Time:** 2.00 pm  
**Venue:** THIS IS A VIRTUAL MEETING

**Members of the public will be able to listen to this meeting by clicking on this link:**

<http://shropshire.gov.uk/SouthernPlanningCommittee16March2021>

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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'
- You may receive an error message or a request for login details if you try to gain access before 2.00 pm

**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](mailto:tim.ward@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the minutes of the Southern Planning Committee meeting held on 16 February 2012

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, 12 March 2021.

## 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 room prior to the commencement of the debate.

## 5 Salop Sand & Gravel Supply Co Ltd, Gonsal Quarry, Condover, Shrewsbury, SY5 7EX (20/03173/MAW) (Pages 7 - 50)

Formation of southern extension; new extraction beneath existing lagoons and progressive restoration for a period of 6 years

## 6 Norton Farm' Condover, Shrewsbury, SY5 7AR (20/05371/FU) (Pages 51 - 80)

Development of a satellite stocking yard to serve operations from Gonsal Quarry

## 7 The Beehive, Curriers Lane Shifnal TF11 8EQ (20/04435/FUL) (Pages 81 - 108)

Erection of nine affordable houses including associated drives following demolition of derelict pub including disused car park

## 8 Schedule of Appeals and Appeal Decisions (Pages 109 - 154)

## 9 Date of the Next Meeting

To note that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 23 March 2021

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## Committee and Date

Southern Planning Committee

16 March 2021

## **SOUTHERN PLANNING COMMITTEE**

**Minutes of the meeting held on 16 February 2021**

**2.00 - 4.55 pm**

**Virtual meeting held via Microsoft Teams**

**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, Cecilia Motley, Tony Parsons, Madge Shingleton, Robert Tindall and Tina Woodward

### **171 Apologies for Absence**

Apologies for absence were received from Councillor Richard Huffer.

### **172 Minutes**

Councillor Turner pointed out that with relation to paragraph 3 of minute 166, he had read his statement out, not Councillor Evans as stated

### **RESOLVED:**

That subject to the above, the Minutes of the meeting of the Southern Planning Committee held on 19 January 2021 be approved as a correct record and signed by the Chairman.

### **173 Public Question Time**

There were no public questions

### **174 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.

In relation to application 18/01258/OUT, Councillor Cecilia Motley declared that she was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Strategy and Performance Committee. She confirmed that she had not taken part in any discussion about the application.

In relation to application 18/01258/OUT, Councillor Robert Tindall declared that he was a member of The Shropshire Hills AONB Partnership, he confirmed that he had not taken part in any discussion about the application.

In relation to application 20/04714/FUL, Councillor Robert Tindall advised the committee that his wife had previously worked for the owners of the business. He confirmed that he had not discussed the application.

In relation to application 18/01258/OUT, Councillor David Turner declared that he was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Strategy and Performance Committee, he confirmed that he had not taken part in any discussion about the application

**175 Proposed Residential Development Land South East of Springbank Farm Shrewsbury Road Church Stretton Shropshire (18/01258/OUT)**

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

The Vice Chair Councillor Turner took the Chair.

The Consultant Planner introduced the application, which was an outline application for the erection of 5No dwellings, to include means of access and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

The Consultant Planner drew Members attention to the information contained in the schedule of late representations.

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

- Councillor Bob Welch on behalf of Church Stretton Town Council
- Councillor David Evans, Local Member (In accordance with the public speaking protocol Councillor Evans read his statement
- Stuart Thomas (Agent) on behalf of the applicants

During the ensuing debate Members comments included

- No new sites coming forward within the new local plan and there will be a need for windfall sites to provide housing numbers.
- There is a Proven need which development will contribute to.
- Application supported by Town Council.

**RESOLVED:**

That contrary to Officer recommendations planning permission be granted subject to a S106 agreement to secure affordable housing if required and delegated authority be given to the Area Planning Manager to apply conditions as necessary and that the reserved matters application should be brought to Committee for determination.

Members felt that the development was in a sustainable location and would deliver additional housing to meet identified local need in accordance with paragraph 3 of SAMDev policy MD3 taking into account the considerations set out in paragraph 2.

Councillor Evans returned to the Chair

**176 Proposed Residential Development Land To The East Of Stoneleigh Close Acton Burnell Shropshire (20/01757/OUT)**

The Principal Planner introduced the application, which was an outline application for a residential development to include matters of access and layout and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

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

- J Long (Chair) on behalf of Acton Burnell, Frodesley, Pitchford, Ruckley and Langley Parish Council
- Amy Henson (Agent) on behalf of the applicants

During the ensuing debate Members comments included

- Acton Burnell is designated as open countryside which normally precludes the development of new build open market housing.
- Concern regarding the inclusion of garden land as part of the application site, in addition to the commercial yard area, in the case for a Departure from the Development Plan being put forward.

**RESOLVED:**

That in accordance with the Officer recommendation planning permission be refused for the following reason

The application site is in a countryside location where in principle there is a presumption against new build open market residential development according to the Council's settlement strategy, as set out in the adopted Shropshire Core Strategy and Site Allocations and Management of Development (SAMDev) Plan. In this case the Albert Davies Yard is deemed Previously Developed Land according to the definition as set out in the National Planning Policy Framework (NPPF) and it is acknowledged that there would be community benefits arising from the cessation of commercial activity at the yard which would weigh in favour of residential development as a departure from the Development Plan if the proposed development was confined to that area of land only. However, the application site

extends significantly beyond that area onto garden land in this settlement which is subject to countryside Development Plan policies where the presumption against such development still applies. Overall, the proposed development is therefore contrary to Adopted Development Plan policies, CS1, CS4, CS5, MD1, MD3, MD7a and paragraphs 77- 79 of the NPPF.

**177 Acton Arms Hotel Morville Bridgnorth Shropshire WV16 4RJ (20/03647/OUT)**

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

The Consultant Planner introduced the application, which was an outline application for residential development of 3 no. detached dwellings to include access, layout and scale and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

The Consultant Planner drew Members attention to the information contained in the schedule of late representations.

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

- Christian Tym in support of the application
- Councillor Robert Tindall, Local Member (In accordance with the public speaking protocol Councillor Tindall read his statement)
- James Collins on behalf of the applicants

During the ensuing debate Members comments included

- Any moneys gained from the development should be used to ensure the redevelopment and ongoing sustainability of the Acton Arms.
- Cluster has exceeded its housing requirement.
- Concern regarding the ongoing sustainability of the public house.

**RESOLVED:**

That the application be deferred to enable further discussion with the applicant around the development of a section106 agreement linking the profits made from the development to the redevelopment and sustainability of the Public House.

**178 Ginny Hole Prescott Cleobury Mortimer Kidderminster Shropshire (20/04714/FUL)**

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Madge Shineton, 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 erection of a rural workers dwelling 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 schedule of late representations.

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

- Duncan Turner in support of the application
- Councillor Madge Shingleton, Local Member (In accordance with the public speaking protocol Councillor Shingleton read her statement)
- Moss Company (Agent) on behalf of the applicants

During the ensuing debate Members comments included

- Long established business
- Secluded site – need for a person on site both for security and to support the activities on site.

**RESOLVED:**

That contrary to Officer recommendations planning permission be granted and delegated authority be given to the Area Planning Manager to agree a S106 agreement in relation to affordable housing and linking the dwelling to the business and to apply conditions as necessary.

Members felt that the proposed dwelling would enhance on site security and management of the site.

**179 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 16 February 2021 be noted.

**180 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday, 16 March 2021.

Signed ..... (Chairman)

Date: .....

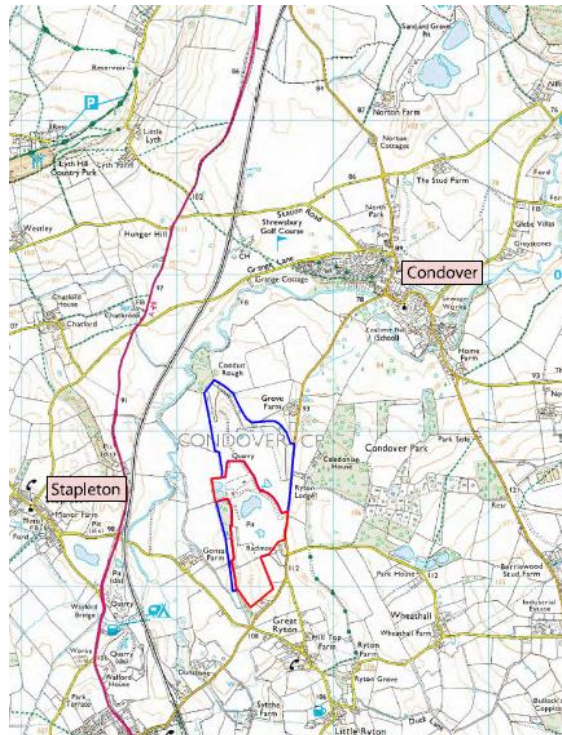
## Development Management Report

Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 20/03173/MAW	<b><u>Parish:</u></b> Condover
<b><u>Proposal:</u></b> Formation of southern extension; new extraction beneath existing lagoons and progressive restoration for a period of 6 years	
<b><u>Site Address:</u></b> Salop Sand & Gravel Supply Co Ltd Gonsal Quarry Condover Shrewsbury Shropshire	
<b><u>Applicant:</u></b> Salop Sand & Gravel Supply Co Ltd	
<b><u>Case Officer:</u></b> Graham French	<b><u>email</u></b> : <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>



**Figure 1 – Location Plan**

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

**REPORT**

**1.0 THE PROPOSAL**

1.1 The Planning Application is for proposed sand and gravel extraction beneath existing lagoons, a proposed southern extension and progressive restoration at Gonsal Quarry.

1.2 The application states that a total of approximately 936,000 tonnes of saleable sand and gravel would be worked, lasting for 6 years at the proposed rate of 150,000 tonnes per annum. This comprises the following elements:

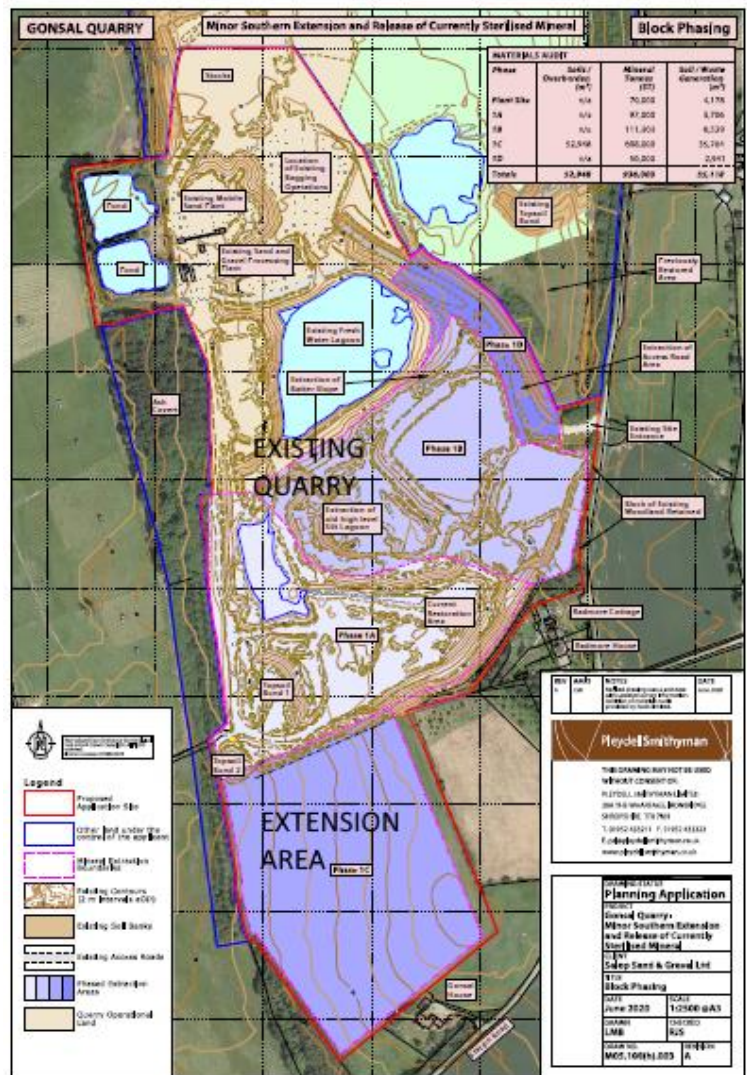
- 100,000 tonnes of permitted mineral remaining in the existing permitted quarry principally located within the site internal access road and beneath the plant site;
- 200,000 tonnes of mineral within the permitted quarry which is below previous (now dry) silt lagoons; and
- 608,000 tonnes from the southern extension area.

1.3 However, since the application was submitted the mineral located outside of the extension area has been mainly worked out under existing permissions, leaving just the 608,000 tonnes in the proposed extension which would yield just over 4 years of production at the proposed output rate.

1.4 The existing permitted quarry access and routing arrangements to the north through Condover would remain the same. No additional plant or machinery required.

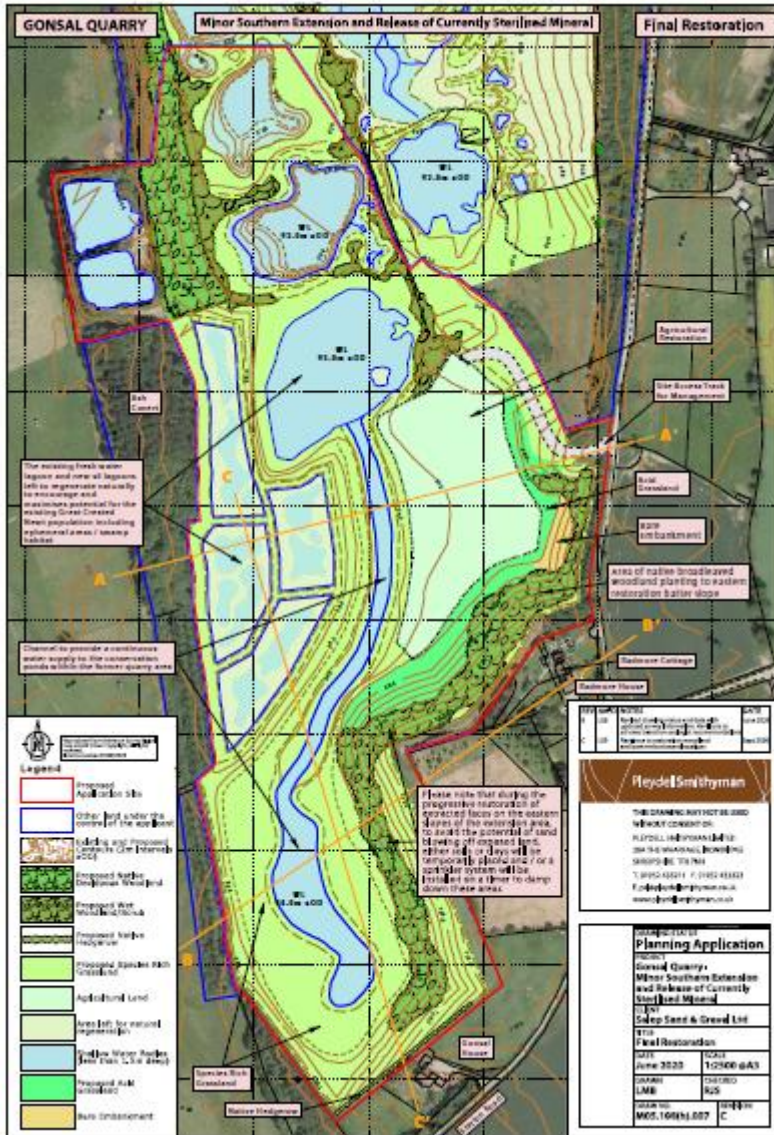
1.5 Extraction and restoration would take place progressively (plan 2).

1.6 The quarry would operate as existing between the hours of 0730 to 1700 Monday to Friday and between the hours of 0730 and 1630 on Saturdays (maintenance work only). No operations are proposed for Sundays or Bank / Public Holidays.



Plan 2 – Block Phasing

1.7 A restoration scheme for the whole quarry site has been submitted and is a continuation of the restoration scheme in place for the northern extent of the quarry. It would involve a mix of agriculture and habitat creation, including dry and wet woodland, conservation grassland, shallow water bodies, marsh and acid grassland, and areas left for natural regeneration. Of the total 23.15ha site 2.26ha would remain undisturbed, 2.15ha would be restored to agriculture and the remainder would be restored to wildlife uses (see plan 3).



1.8 Environmental Statement: An Environmental Statement accompanies the application under Schedule 2 of the EIA Regulations including transport, hydrology and ecological assessments. These matters are considered in section 6 below.

2.0 SITE LOCATION / DESCRIPTION

2.1 The proposed extension area is located south of the existing quarry. Gonsal Quarry itself is located off Station Road, between Dorrington to the south-west and Condover to the north-east. Shrewsbury is the nearest major town, approximately 7.5km north of the site. The small village of Great Ryton is located approximately 500m south of the existing quarry.

- 2.2 The Site area (23.18Ha) comprises the southern part of the existing permitted Gonsal Quarry (18.06Ha) and a proposed southern extension of 5.12Ha.
- 2.3 The closest residential receptors are located along Station Road, to the east and south of the quarry. Gonsal House is the closest property, directly abutting the proposed southern extension. The landscape is predominantly rural, with a gently undulating topography in the vicinity of Cound Brook, a tributary of the River Severn.
- 2.4 Access to the site is gained from Station Road with quarry traffic passing through Condover and joining the A49 a short distance south of Bayston Hill.
- 2.5 The proposed southern extension is into an existing 4.7ha arable field of which 4ha of which is proposed for mineral extraction. The land has a slight rise from west to east. The boundary between the current quarry and the proposed extension area is a hedgerow which does not contain any trees and has gaps at either end to enable farm access. The land within the current quarry which forms part of this application consists of old silt lagoons sterilising underlying mineral and an internal access track.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposals have attracted objection from Condover Parish Council and have been referred to committee by Councillor Dan Morris.

### 4.0 COMMUNITY REPRESENTATIONS

#### Consultee Comments

- 4.1 Condover Parish Council – At its meeting on 1st September 2020, Condover Parish Council resolved to make the following representations:

- i. Lorries travelling to and from Salop Sand and Gravel pass through the central conservation area of the village of Condover, and past the village primary school. The weight and speed of the lorries, the congestion caused when lorries try to pass each other and the practice of mounting the pavement to squeeze through present real and considerable hazards for local residents, pedestrians and other road users. A detailed traffic management plan taking account of lorry movements through Condover should be in place and properly, formally monitored. The Planning Conditions should clearly state the number of lorries per hour permitted to pass through Condover village, to and from the quarry, and compliance should be actively monitored by and reported to Salop Sand and Gravel and Shropshire Council.
- ii. Planning consent granted in 2018 for the existing quarrying activity (13/00336/EIA - 25/04/18) states that:

*10a. Unless otherwise approved in writing by the Local Planning Authority, or except in the case of emergency, records of which shall be retained for inspection by the Local Planning Authority, the quarrying and associated processing operations and uses hereby permitted shall not take place outside the following hours:-*

*Mondays to Fridays 07.30 - 17.00 hours*

*Saturdays 07.30 - 16.30 hours (Maintenance Work only)*

*No operations shall take place on Sundays, Bank Holidays or other National Holidays.*

Between 16th - 29th June 2020, Condover Parish Council carried out a survey of traffic type and flow along Station Road between the village hall and the school. This was to provide a 'picture' of road use on an 'average' day. The survey found that during this two week period, there were three occasions when quarry lorries passed through the village BEFORE 7.30am (6.00am - 7.00am) and four occasions AFTER 5.00pm (5.00pm - 6.00pm) on week days. There was one occasion when a quarry lorry passed through the village on a Saturday (10.00am - 11.00am). Lorry traffic starting before 7.30am and finishing after 5.00pm causes considerable disturbance to residents and does not comply with existing planning conditions. The Planning Conditions should clearly state the times between which lorries are permitted to operate and pass through Condover village, to and from the quarry, and compliance should be actively monitored by and reported to Salop Sand and Gravel and Shropshire Council.

- iii. The condition of the road surface through Condover village is very poor. There are potholes and areas where the top surface has completely worn away. Heavy vehicles, including the quarry traffic, have damaged service access covers, adding to the noise and disturbance. Repair works carried out by Shropshire Council do not endure and the surface quickly returns to its former condition. The Parish Council is aware that Salop Sand and Gravel make a contribution per tonne to Shropshire Council to assist with the maintenance of local public roads. This contribution should be clearly linked to effective and resilient maintenance of the road through Condover village, and from Condover village to the quarry entrance.

*Note: Whilst the initial comments of the Parish Council can be described as 'neutral' subsequent correspondence received from the Parish Council and meetings with the Parish Chair and Clerk attended by the officer can be interpreted as objecting to the application.*

- 4.2i. Environment Agency – No objection subject to conditions on pollution control. Our previous response, dated 22 October 2020, raised some concerns/points for clarity based on the information presented within the ES in relation to hydrogeology and the potential impacts upon the water environment. We previously noted that a Water Management Plan is put forward. Following a review of the supplementary information we are satisfied with the responses from Stantec and consider that the following condition could be imposed to secure an appropriate water monitoring and mitigation for any possible impacts encountered. We would expect to see trigger levels and monitoring of the Cound Brook.
- ii. Dewatering - As highlighted previously, we are in agreement that providing most of the water that is de-watered is returned to the river, there shouldn't be any major impacts providing the timing is right. In relation to the quarry abstraction and New Authorisations, as this is a new planned phase of working, the transitional application will not cover this activity. Consequently a separate licence application/variation will be required. The applicant will need to ensure that all the secondary uses are also appropriately licenced. It appears that the proposed new working proposals are to quarry out beneath the existing silt lagoons/extension to the south. It is suggested that the de-watering rates should be the same. However any application will be assessed on a case by case basis. i.e. granting of planning permission does not compel an abstraction licence to be granted.

- iii. Water quality - We note the comments on the discharge to Cound Brook and monitoring to date. There may be a need to vary the existing permit to discharge (discharge consent license). The applicant should contact our area Land and Water team on 03708 506506. The need for an abstraction licence and permit to discharge should be an informative on any planning consent.
- iv. Biodiversity - We would reiterate our previous comments. (Recommends consulting Natural England given that Great Crested Newt are present in the existing quarry. Recommends 10 year aftercare and expansion of the EcoTech Habitat Management Plan submitted with the previous planning application).
- v. Flood Risk - We have no comments on fluvial flood risk on the basis that the site is located within Flood Zone 1 ('low probability' of fluvial flooding). We would recommend that you seek the comments of your Flood and Water Management team (LLFA) who would lead on surface water (quantity) drainage and the latest peak rainfall climate change allowances.

4.3 Shropshire Wildlife Trust – No comments received.

4.4 Natural England – No comments received.

#### Internal Comments

4.5 Regulatory Services - No objection. It appears from the application that the proposed extension will have little further impact in terms of noise and dust on receptors identified in the vicinity. The extension brings the quarrying closer to Gonsal House and I note that the property will be, or may be vacated for the duration of the extraction period and mitigation works to bank to the rear of the property. In either case a noise limit has been proposed for the property consistent with the extant condition in 13/00336/EIA for the four current locations bordering the site (Grove farm, Ryton Lodge, Grange cottage and Radmore Cottage) of 51 DbA and 48 DbA Leaq for 1 hour, as well as general mitigation as the works progress as mentioned in the environmental statement.

4.6 SC Highways Development Control – No objection subject to the following comments:

- i. The proposal at Gonsal Quarry form a combination of 2 separate planning applications at Gonsal Quarry (Ref 20/03173/MAW) and Norton Farm (Ref 20/05371/FUL), but that are intrinsically linked on the basis that Norton Quarry is to be used as a satellite storage area to stockpile the quarried material from Gonsal, which would be transported to Norton Farm, travelling through Condover village, via the applicant company's own vehicles. It is indicated that there would be a maximum of 2 hgv's operating in this manner. It should be noted that the substantive mineral extraction application can be dealt with in its own right, but that the stock piling at Norton Farm provides a material benefit to mitigate and control the impact of hgv's travelling through Condover.
- ii. The highway authority acknowledge that applicant company Salop Sand & Gravel have been operating out of Gonsal Quarry since the 1950's under a series of planning consents, with hgv movements connected with the quarry operations restricted to



travelling from the site through Condover village and exiting out onto the A49 south at its junction south of Bayston Hill. There is therefore a long history of the quarry activities at Gonsal and the routing of hgv quarry traffic through Condover. Gonsal Quarry is identified in the SAMDev and is an important mineral resource within Shropshire, although more latterly the aim has been to try and identify an alternative traffic route to the site avoiding Condover. Whilst aware that that alternative access options have been considered and as part of this application, Condover remains the most economic and suitable hgv route having regard to the current scale of extraction as part of this submission and the anticipated timescale to win the material.

The current proposal seeks consent to extract 930,000 tonnes over a 6.5 year period, equating to 150,000 tonnes per annum.

- iii. It is acknowledged at the outset that there is significant local opposition and of the Parish Council to this application having regard to the continuation of quarry hgv movements through Condover village and the highway safety considerations. In this regard the highway authority must have regard to para 109 of the NPPF, which sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The word 'severe' is therefore interpreted as a high threshold to breach in considering if a highway objection on highway capacity and/or safety grounds is both warranted and sustainable to potential appeal.
- iv. The application is supported by a Transport Statement (TS), which recognises the historic quarry operations at Gonsal quarry and suitability of the local highway network. The TS recognises the constraints of the routing through Condover and in particular, through the section between the Post office and Junction by Condover School and the section approaching the Church Road junction. The TS identifies potential highway improvements works at the Church Road junction to increase the carriageway running width at the road bend and traffic management measure options at the Station Road junction adjacent to Condover School to include a 20 mph speed limit. These measures would be funded by the 9p per tonne payment levy imposed upon previous and current Gonsal Quarry permitted working pro rata payments plus the upfront payment that would be generated by the proposed extraction of 930,000 tonnes as part of the lifetime of this submission. This equates to a total sum in the order of £115k but it should be stressed that the use of these funds is a matter for Shropshire Council to allocate and not the applicant.
- v. As set out in the TS, classified traffic counts were taken in October 2020 to establish traffic volumes and hgv's on the network at a number of locations. It was acknowledged that these were undertaken during Covid restrictions and therefore provided an indication of traffic movements on the network. Clearly also the traffic counts taken at a specific time of the year, would be subject to season variance since the routing from the A49 through Condover village provides access to a significant coverage of agricultural land and farming units together with access to the Industrial estate. Gonsal quarry therefore whilst clearly being a contributor to hgv traffic travelling through Condover it is not the sole generator of hgv traffic on the network and the TS shows the percentage of Gonsal hgv's set against non-quarry hgv's varies quite considerably at times.

- vi. As part of any Transport Assessment or Traffic Statement, it is normal practise to consider personal injury accident (PIA) data on the network based upon a 5 year period. As part of this submission, the TS has considered the PIA data over a 21 year period 1999-2019 and cross referenced this with those involving hgv's. This reveals that only 3 PIA's have occurred in the study area and only one of those involving a vehicle above 7.5 tonnes. Given the accident record set against the quarry extraction activities and the routing of HGV's through Condover, there is no identified accident problem. The TS therefore concludes that in highway safety terms the continued operations at Gonsal and associated hgv's on the local highway network is acceptable.
- vii. In terms of highway capacity it is considered that the routing between the site access at Gonsal Quarry and A49 is generally of an acceptable standard to cater for the volume and type of vehicles that use this route. Whilst the TS considers the traffic route, it is considered that there are 2 specific sections where there are constraints where the passing of 2 hgv's simultaneously is a problem. Firstly, the section adjacent to the Station Road/Church Road junction, where it is proposed to set the kerb line back across the grassed island along Station Road and therefore easing vehicles passing one another. This is considered to be of wider benefit to all road users than just in relation to quarry traffic. The second constraint relates to the section between the Post Office and the Station Road/Station Road junction. The forward visibility along this section is restricted due to the horizontal alignment of the highway carriageway and property boundaries and the carriageway narrows. This presents a physical issue, at times, to allow 2 hgv's of a hgv and coach to pass one another along this section although it is accepted that vehicle speeds are likely to be low along this section and this is indeed acknowledged in the TS which reveals that the traffic counts taken near to the Post Office show average vehicle speeds of 23 mph north-bound and 23.4mph south-bound.
- viii. The TS provides details showing the potential provision of a mini-roundabout at the junction off Station Road/Station Road and indeed the applicant was asked by Council officers to consider this traffic management option together with the potential to introduce a pedestrian crossing. Whilst these have been considered it is understood that the Parish Council are in not in favour of such measures. Having regard to the potential Section 106 monies available of £115k the highway view is that these measures should not be pursued. The provision of a 20 mph speed limit through Condover village past the school however is considered to be a benefit and one the highway officers support.
- ix. As part of previous and current quarrying activities at Gonsal, customers have collected the quarry material directly from site or has been delivered to. Having regard to the concerns expressed by the Parish Council and local residents, the applicant company has submitted a separate application to utilise Norton Farm as a satellite storage area where material would be taken by the applicant company vehicles and stockpiled. Whilst this would not avoid quarry hgv traffic through Condover village, it offers the ability to manage and control the hgv movements via a maximum of 2 hgv's shuttling between Gonsal and Norton such that they would avoid operating during school dropping off and picking up times and that the 2 hgv's could be managed so that they would not meet on route.
- x. In conclusion whilst the application seeks the extraction of 930,000 tonnes over a period of 6.5 years, it is understood that the quarry has been operating beyond current

permitted extraction rates and as such it is anticipated that the extraction of 930,000 tonnes would be completed inside of 4.5 years. Given the foregoing including potential highway infrastructure benefits set out together with managing hgv quarry traffic utilising Norton Quarry, it is considered that a highway objection is not warranted and moreover an objection on highway capacity and/or safety grounds is not sustainable. It is anticipated however that the satellite stockpiling depot will take a period of time to develop but should be implemented as soon as possible, but in any event the depot and access improvements should be completed within a maximum period of 6 months of consent granted.

- 4.7. SC Ecology – No comments received. The following comments were received on the previous planning application (13/00336/EIA) and are considered to remain relevant to the current application:

‘A large meta population of Great Crested Newts has colonised the water bodies in the quarry. A European Protected species mitigation licence will be required from Natural England before the development commences and this should be conditioned. Use of amphibian fencing and trapping measures, together with the demarcation of a receptor area in the quarry which provides links to surrounding habitat, should minimise any killing or injury to GCNs. Providing the concept restoration plan is followed, and the ponds retain water levels as predicted, the site should be improved for this species once restoration is completed and established. Badgers are active on the site and stand-off areas have been proposed to avoid disturbance of setts. Badgers are highly mobile species and a thorough check for new activity should be carried out by a qualified ecologist prior to work commencing in each phase. Provision of bat boxes, retention of sand faces for martins and invertebrates and the increase in standing water and species-rich grassland habitats will all enhance the biodiversity value of the quarry in the long term. Natural regeneration of vegetation on the bare sand surface should be used wherever possible as the greatest biodiversity will be achieved this way. The concept restoration plan provides little detail and conditions should be placed on any permission if granted that a detailed Landscape Restoration Plan and a detailed Habitat Management Plan should be submitted for LPA approval. Otherwise, the recommendations in the Ecology chapter should be followed. I gather some public access via permissive footpaths has been proposed. Providing appropriate ecological safeguards are in place such use should be possible’.

- 4.8 SC Conservation - No objection. This application proposes a further extension to the south of the existing quarry operations, new extraction areas and a quarry restoration program as more particularly described and mapped in the details submitted. We would advise that with respect to this type of application, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: 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), and MD13 (The Historic Environment), and national policies and guidance including the National Planning Policy Framework (NPPF) and Historic England Guidance including for example 'The Setting of Heritage Assets' GPA3. Several supporting technical assessment reports have been prepared relevant to this proposal including an Archaeological Desk Based Assessment by Worcestershire Archaeology which also describes and assesses built heritage assets potentially affected by this scheme. In the main the assessment is considered to satisfactorily address the requirements of paragraph 189 of the NPPF

and our own local policies in terms of built heritage matters however there a couple of minor inaccuracies in the report, for example only Condover is covered by a Conservation Area designation (not the Ryton villages or the Shrewsbury and Hereford Railway line) and again only Condover relevant to Condover Hall has a Registered Park and Garden (not Walford House) covering their grounds. The conclusions with respect to built heritage matters are noted and any mitigating measures recommended such as landscaping solutions should be implemented. The Archaeology Team will comment specifically on the archaeological matters assessed in Report as will Historic England where any additional recommendations should be followed in full.

- 4.9 SC Archaeology – No comments received
- 4.10 SC Arboriculture - No objection. Having read the submitted landscape and ecology information it is apparent that this proposal has a low arboricultural impact. No protected or important amenity trees are affected. I note the removal of 173m of hedgerow is necessary (described as defunct) to be replaced with 154m of mixed continuous native hedging for a modest environmental gain long term. Therefore I have no objection on arboreal grounds and support the restoration plans for new woodland planting.
- 4.11 SC Drainage – No objection. The flood risk as described in Section 15: Water Management and Flood Risk in the Planning and Environmental Statement is acceptable.
- 4.12 Councillor Dan Morris (Condover) has been informed of the application and has referred the application to be determined by the Committee.

#### Public Comments

- 4.13 The application has been advertised in the press and by site notice and the nearest properties have been individually notified. The application has attracted representations from 75 individuals of which 73 are objections and 2 are in support. The concerns of objectors can be summarised as follows:
- i. Traffic: Road is unsuitable for lorries, HGV's passing residential properties. How will the suggested traffic controls be enforced? An alternative route should be found avoiding Condover. Photos showing problems with larger vehicles in Condover have been received. Quarry trucks have become larger. The size of the vehicles travelling to and from the Quarry are substantial. Considerable risk to pedestrians and other traffic. The roads are dangerous to use both in vehicles and on foot. The amount of lorries, farm vehicles and coaches travelling through Condover village at this time is at a dangerous and unacceptable level. The roads are simply not designed for the volume and size of vehicles. If you then also consider the fact that we have a primary school and preschool in situ, the safety concerns become even more paramount. This issue is far more widespread than just the quarry vehicles. The farm vehicles, lorries going to the industrial estate and coaches using Condover Hall should be considered just as culpable and problematic. Station Road is already busy, unsafe and in poor repair. The road is not wide enough for large vehicles to pass each other without mounting the pavements or reversing. Not all of the village has the benefit of paths and those which do are regularly driven over by these vehicles. There is uncertainty

regarding the actual number of quarry HGV movements. Whilst the application states that there have been no recorded serious accidents on the quarry access route residents have witnessed numerous near miss incidents. Past complaints have been overlooked. Concern that traffic counters will give misleading results. Speed limits are not being observed 30mph speed limit is too fast and should be reduced to 20mph. Concern about quarry HGVs' passing through the village outside of permitted working hours. If the quarry operators are unable to conform to the rules now, there is little chance of them being able to do so with a substantially increased volume of extraction and the associated increase in heavy traffic. We are frequently picking up broken indicator covers, broken wing mirrors as well as stones, rocks and other parts that are dropping from the trucks. Lorries need to be registered and a record of each journey (including times and speeds (from their tachographs)) submitted to an independent body, and any infringements of existing traffic laws subject to hefty fines. CCTV cameras could be set up for recording lorry movements, and traffic calming measures could also be put in place;

- ii. Public safety: Condover conservation area has narrow roads and learning establishments for up to 500 young visitors. Any increase in traffic, especially heavy traffic, is also a major disincentive to cycling and walking from and within Condover itself, including children going to pre-school and school. A tragedy was narrowly averted this week when a motorbike was reversed over by an articulated lorry reversing to let a quarry truck over the bridge just after the village hall, but the motorcyclist having the presence of mind to jump off his bike heaven knows what would have happened;
- iii. Highway mitigation: Doubt about effectiveness of the proposed mitigation measures. Any funds should be spent exclusively on highway maintenance. 9p per tonne should be reviewed regularly. A statement on available funds should be provided. Funds need to be spent regularly. Concern that any highway maintenance payments may just go into a central pot;
- iii. Policy: The SAMDEV states that no further extraction would be allowed unless a relief road to the A49 is constructed. What evidence is there that the relief road is not feasible?;
- iv. Amenity, dust and noise impact: General concern about quality of life for residents. HGV noise from before 6:00 am in the morning to early evening. Hours of working are certainly not adhered to. Lorries routinely pass through the village travelling to / from the quarry outside these hours, sometimes before 06:30 and as late as 19:00. Specifically, empty trucks are an acoustic nightmare and sounds like huge drums going through the village. Add to that the horns they continually blast as they go around the corner at the end of the village. Furthermore, the loud engines cause such noise that I am unable to continue my work calls as I work from home frequently of late. And lastly, the incessant beeping of trucks backing up to manoeuvre past each other is just ridiculous.
- v. Conservation: Concern that HGVs are having a damaging effect on the Condover Conservation Area and its historic buildings. Property damage. I can literally feel the trucks rumble though in my house.
- v. Restoration: Specific commitments for restoration timescales are needed – not clear exactly how long quarrying would last for;
- vi. Excessive working hours: vehicles pass through village at 5.30am and park up in readiness for quarry opening. HGV's should be banned at certain times;

4.15 Support comments include:

- i. We note that the only other comment of support comes from another neighbour who lives right next to the quarry like ourselves. We do not contest the fact that Condover village and station road are extremely busy traffic wise, but to be fair, it is quarry traffic PLUS other vehicles. Gonsal quarry (and others), farming and the industrial estate were already here when we (and many other people) moved here, so if you thought it was going to be quiet then perhaps more research should have been done? It is not the speed of the quarry vehicles that is the problem, it is car and tractor drivers. Quarry drivers are generally careful. The parents worried about their children's safety might consider that they are actually part of the problem adding to the traffic congestion with inconsiderate parking. Some noise and dust is to be expected from this established operation. Vehicles are daytime only. Concerns of village residents about traffic are recognised but singling out one source seems unfair. We currently experience a small amount of noise that is not a problem. We have an agreement with the owner that when the work does impact on us, a gradual soil embankment will be provided to shield us from the potential dust and noise, this is preferable to a soil "bund" that would be unsightly. As such we are happy with the planning proposal as it stands.

## 5.0 THE MAIN ISSUES

- i. Planning policy and need for the development;
- ii. Environmental implications of the proposals, including with respect to highways, ecology noise, dust, working hours, hydrology, agriculture, restoration and afteruse.

## 6.0 OFFICER APPRAISAL

### Planning policy and need

- 6.1 Introduction: The principle of quarrying at Gonsal was established in 1977 by planning permission SC/MS1977/0755/SY and a series of subsequent quarrying permissions have since been awarded. Mineral working throughout this time has proceeded at a rate of up to 200,000 tonnes per annum until recently when the main permitted mineral reserves within the site were exhausted. The application as submitted seeks to extend workings into a field to the immediate south of the existing quarry yielding 608,000 tonnes of mineral. The proposals also refer to working of a further 300,000 tonnes of mineral within the existing quarry site (300,000t) which has since been worked under existing planning permissions. The extension would be worked over 4 years at a proposed rate of up to 150,000 tonnes per annum.
- 6.2 Policy: The National Planning Policy Framework (NPPF) advises (paragraph 203) that 'it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation'. 'When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy' (para 205). Minerals planning authorities should plan for a steady and adequate supply of aggregates including amongst other matters by maintaining a landbank of at least 7 years for sand and gravel (para 207). The NPPF also establishes a presumption in favour of development which is in accordance with the development

plan. In Shropshire the development plan comprises the Core Strategy and the SAMDev Plan. The proposed extension is allocated for mineral extraction by SAMDev policy MD5b.

- 6.3 National policy for aggregate supply: Paragraph 207 of the NPPF requires Mineral Planning Authorities (MPA's) such as Shropshire to plan for the future steady supply of sand and gravel by ensuring amongst other matters that sufficient permitted reserves exist for at least 7 years of sand and gravel, having regard to relevant national advice and local policies. MPA's also have a duty to cooperate with neighbouring MPA's to ensure adequate provision within the sub-region.
- 6.4 Shropshire is a member of the West Midlands Regional Aggregates Working Party (WMRAWP) which comprises a group of all mineral producing authorities in the West Midlands region. The WMRAWP identifies agreed annual production targets ('sub-regional apportionments') for each local authority area. Sufficient sand and gravel must then be made available in each area to meet the sub-regional apportionment target and to provide reserves sufficient to meet the 7 year rolling landbank of permitted reserves required by the NPPF. Shropshire must therefore identify sites in its minerals policy documents with sufficient capacity to meet this production target. This includes the current application site.
- 6.5 Development plan policy: Core Strategy Policy CS20 (sustainable mineral working) amongst other matters reaffirms Shropshire's commitment to make continued provision for sand and gravel production at the appropriate apportionment level. The policy also establishes a preference for extending existing quarries such as Gonsal rather than establishing new 'greenfield' sites.
- 6.6 SAMDev Policy MD5b identifies allocated areas for future mineral working, including at Gonsal Quarry where the current southern extension is included as well as a larger northern extension. The development guidelines accompanying this allocation advise as follows:

SAMDEV Policy MD5b - Gonsal Quarry Allocation, Development Guidelines  
*Development subject to:*

1. *the creation of a new access to the A49 which would deliver significant local transport benefits over current access arrangements;*
2. *further assessment and appropriate mitigation measures to address potential impacts on residential amenity for properties along the site boundary and the edge of the village of Condover which would be in the prevailing wind (dust and noise issues would require mitigation);*
3. *further assessment and appropriate mitigation measures to address potential impacts on protected or priority habitats and species and ecological networks;*
4. *a site restoration scheme which will be designed to deliver significant wildlife and recreation benefits;*
5. *further assessment and appropriate mitigation measures to address potential impacts on the setting of historic environment assets, including Condover Hall listed building and school (700m) and Condover registered park and garden (100m).*

The development guidelines above do not form part of the actual policy but are instead indicative guidelines providing criteria which the planning authority consider should be addressed in any planning application for the allocated site. As such they are a material consideration to be weighed into the planning balance.

- 6.7 However, the applicant has concluded that the new access is not feasible and instead it is proposed to continue to obtain access through Condover to the A49 as per current and historical transportation arrangements. As such, the current proposals relate to an allocated mineral site where there is a presumption in favour of development but they do not conform fully to the development guidelines set out in SAMDev Policy MD5b.
- 6.8 In terms of mineral resource, the sand and gravel in the proposed extension has been proven by boreholes and would be capable of supplying the quarry's existing established markets focusing mainly on Telford, and Shrewsbury. The required quarrying infrastructure is already in place.
- 6.9 Mineral sterilisation: The applicant has advised that access to the A49 is not currently viable and therefore the current extension may be the last potentially recoverable area of mineral at Gonsal, unless this situation changes. If the current proposals do not proceed and the link to the A49 remains unviable then restoration requirements from the existing planning permission would necessitate removal of existing quarry plant and infrastructure. It is considered unlikely that in these circumstances that it would be economic to work the mineral at a future date given 1) the limited tonnage in the extension, 2) the cost of re-introducing operational plant to the site at a future date and 3) the potential disturbance to restored quarry land and associated ecological habitats which this would entail. As such, if the mineral in the proposed extension is not worked at this stage it could be argued that it would be effectively sterilised. This would be in conflict with Core Strategy Policy CS20 and SAMDev Policy MD16.
- 6.10 Conclusion on policy and need: In summary the current proposals relate to an allocated mineral site where the NPPF established a general presumption in favour. The proposals would be capable of contributing to the county's required annual production levels with a high degree of certainty and would allow continuity of working and associated employment at Gonsal Quarry which has been in operation for 50 years. If the extension did not proceed then the mineral in the extension would effectively be sterilised in conflict with national and local mineral policy including SAMDev Policy MD16. The need for the proposed quarry extension can therefore be accepted in principle. This is subject to the proposals also meeting other relevant policy tests with respect to the environmental matters discussed below.

#### Environment and amenity

- 6.11 The NPPF advises (para 205) that 'Mineral Planning Authorities should ensure, in granting planning permission for mineral development, that there are amongst other matters no unacceptable adverse impacts on the natural and historic environment or human health, and should take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality'. MPA's should also ensure amongst other matters that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties.



- 6.12 Traffic: Condover Parish Council and local residents have expressed significant concerns about the level of quarry traffic passing through Condover and this represents their main objection. They consider the road through the village to be unsuitable for the size and volume of HGV traffic using it and have urged consideration of an alternative access solution. The applicant and their highway consultant have considered this and have concluded that there are no viable alternatives given the significant limitations of other potential local roads. Options for alternative routing of quarry traffic have been reviewed on a regular basis throughout the history of quarrying at Gonsal. The advice of the Highway Authority has consistently been that the only feasible existing route is through Condover to the A49.
- 6.13 The Environmental Statement includes a traffic assessment including a traffic survey. This finds that the highest traffic movements and peak flows occur north of the school, where the daily weekday flows averaged 2585 vehicles including between 122 and 163 HGV's plus 56 HGV movements recorded on Saturday. The peak hourly flows vary between 46 and 277 movements. The assessment advises that the overall traffic volumes are low in absolute terms, even at the busiest times. The 24 hour flow is comparable to the peak hour capacity of a 7.3m wide trunk road. The peak hour flows recorded of 277 movements are comparable with the capacity of a single-track road with passing places (between 50 and 300 movements per hour).
- 6.14 In terms of the Gonsal Quarry traffic, the daily HGV flows through Condover were seen to vary significantly, between 4 loads / 8 movements and 30 loads / 60 movements per day. The peak number of loads leaving the site in any hour was 6 on Wednesday 30<sup>th</sup> September 2020. On the basis that it takes between 10 - 20 minutes to process, load and release a vehicle from the site, this could result in a worst level of 12 movements per hour during the peak period of activity which equates to 1 HGV movement every 5 minutes at peak efficiency. An annual production level of 150,000 tonnes and a 5.5 day working week results in an average of 27.3 (say 28) loads / 56 HGV movements per day for a 20 tonne payload (reducing by 50% for a 30 tonne payload).
- 6.15 During the survey period, there were a total of 129 loads / 258 movements through the village over the Monday to Saturday morning period, of which 79 loads / 158 movements were larger articulated vehicles (61.24% of the total). The average of 23.5 (say 24) loads / 48 movements per day associated with the Quarry is considered representative of a typical week. In terms of overall HGV traffic on the road network, it was found that Gonsal HGVs represented between approximately 20 – 70% of the flow near to the site access; 15 – 53% at Site 3 near the shop; and 14 – 48% to the north of the school. Hence, a significant proportion of the HGV activity on the local road network through Condover is not associated with Gonsal Quarry.
- 6.16 It was also found that the recent activity has not led to any significant or unusually high number of personal injury accidents involving the larger HGVs typically associated with quarrying activities; with only one incident involving an HGV over 7.5 tonnes in a 21 year period and none within the most recent 5 year period. Local residents have queried this conclusion based on the number of near miss and minor incidents which they advise go unreported.
- 6.17 The transport assessment puts forward potential mitigation measures to reduce the impact of quarry traffic on the local road network. This follows a site meeting involving

the applicant, their agent, the applicant's transport consultant and highway and planning officers reviewing potential improvements and constraints within Condover.

- 6.18 A key part of the proposed mitigation strategy is the intention to establish a satellite depot at Norton Farm north of Condover. An application for this forms a separate item on this agenda (reference 20/05371/FUL). The proposed depot would allow levels of traffic from Gonsal Quarry passing through the village to be evened out and controlled to avoid peak school hours. Two quarry drivers with local knowledge of the route would be employed. At present there is significant variability in flows as 3 separate customers can access the quarry using larger articulated vehicles and the demand of each customer can coincide. Establishment of the depot would result in average daily HGV activity of 20 return loads (40 movements) based on a 30 tonne articulated payload or 30 loads (60 movements) based on a 20 tonne non-articulated payload. This is significantly less than the up to 12 movements per hour which could theoretically occur based on quarry loading times.
- 6.19 Other suggested mitigation measures put forward in the transport assessment include:
- i. Reduction of speed limit from 30mph to 20mph;
  - ii. Provision of an additional passing place to the north of the site access;
  - iii. Provision of a mini-roundabout at the Church Street – Station Road junction by the school and provision of a pedestrian crossing;
  - iv. Marginal widening of the highway at a small traffic island south of the village hall;
- 6.20 The current quarrying planning permission includes a legal agreement which includes a routing restriction directing quarry traffic through Condover and a requirement for a highway maintenance contribution based on 9p per tonne. This legal agreement requirement would be continued under any permission linked to the current application. The amount of money currently paid and/or due under the existing legal agreement is approximately £50k. It is expected that the mineral in the current application site would yield a further £65k of highway funding based on continuation of the 9p per tonne levy. This would yield a total of @£115k for funding to deliver highway mitigation. The Highway Development control officer has suggested that the funding for items iii and iv above could instead be used for general repairs and improvement on the local highway network through Condover. It is anticipated that the exact use of the highway funding would be subject to consultations with the Parish Council.
- 6.21 Highways Development Control officer has not objected to the application and has advised that it would be very difficult to defend a highway objection given that the quarry has been in operation for decades obtaining access through Condover. The applicant's transport assessment has indicated that the level of traffic on Station Road is not high by national standards and the road does not have a bad accident record with no recorded accidents in the past 5 years. The applicant has also put forward specific mitigation proposals which are described above, including for the use of a satellite depot at Norton Farm which would even out and facilitate more controlled flows avoiding school drop-off and pick-up times.
- 6.22 Paragraph 109 of the NPPF advises that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It is not considered that continued use of the access route through Condover at historic

levels for the quarry site for the 4 ½ year duration of the quarrying scheme would give rise to an unacceptable new impact on highway safety or severe residual impacts on the local highway network. Consideration of this application also needs to be seen in the context of NPPF paragraph 205 which advises that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.

- 6.23 Highways – Alternative Access: The site and a larger northern extension to Gonsal Quarry are allocated by Policy MD5b. The development guidelines accompanying the policy indicate that any application should obtain access to the allocated sites by means of a new access road linking to the A49. The applicant has reviewed options for delivery of a new access road and concluded that this is not viable. The applicant has verbally provided evidence in support of this to the officer. The current application therefore proposes continued access through Condover for the proposed 4½ year duration of mineral working. This would be linked to a mitigation package including formation of a satellite depot at Norton Farm and continuation of highway maintenance funding at the existing rate of 9p per tonne. A transport assessment has put forward potential mitigation measures which could be delivered from the associated funding.
- 6.24 Because the current application does not involve construction of a new access route to the A49 it does not comply with the development guidelines accompanying SAMDev policy MD5b although the proposed extension remains an allocated mineral site. The following considerations should be taken into account in assessing the acceptability of the current proposals in highway terms:
- i. The highway authority has not objected to the proposals which involve exporting up to 150,000 tonnes per year from the quarry using the route through Condover;
  - ii. The applicant has put forward mitigation proposals which are designed to mitigate the impact of quarry traffic during the proposed temporary period of future operation.
  - iii. The quarrying proposals are relatively small scale and would secure production for up 4.5 years at the proposed output rate;
  - iv. The quarry has been operating for over 50 years with outputs through Condover which are similar to the level currently proposed;
  - v. There have been no fundamental changes in the design and circumstances of the local highway though there is a general trend towards increased traffic and larger HGVs;
  - vi. The transport assessment advises that the level of traffic recorded through Condover Village is not high based on national standards and equates to the level which might be expected for a single-track road with passing places;
  - vii. The transport assessment advises that the road has a generally good accident safety record though local residents refer to unreported and near miss incidents;
  - viii. The development guidelines for Gonsal Quarry are 'guidelines' as opposed to 'preconditions' for development. They indicate the preferred criteria of the planning authority for developing the allocated site at Gonsal south. They are a material consideration which the authority must have regard to, though they do not form part of the wording Policy MD5 itself. The applicant's justification for not developing the new access must be considered on its merits having regard to extenuating factors such as the cost and feasibility of developing the new access and the impacts associated with continuing to use the existing access route.

- 6.25 The SAMDev development guidelines for Gonsal Quarry group the current small extension together with the much larger northern extension allocation. In practice the two extensions would be expected to be worked separately given their geographic separation. The applicant has reaffirmed that the northern extension would not be worked unless a new access can be delivered or an alternative mitigation solution can be agreed. Given the size of the northern extension it is reasonable to assume that it would be more capable of supporting the substantial costs of constructing a new access if there was a viable technical solution. However, that the same conclusion would not apply for the smaller southern extension when viewed in isolation.
- 6.26 The applicant has concluded that delivery of the new access referred to in the SAMDev would not be viable and has provided verbal evidence to the officer explaining this. In the absence of a viable solution to deliver the new access the applicant has submitted the current application for the smaller southern allocated site. This seeks continuation of existing historical access arrangements through Condover for a further temporary period in association with a highway mitigation package. The applicant is entitled to apply not to comply fully with the development guidelines set out in the SAMDev policy and the current application must be considered on its individual merits. In this case the Highway Authority has not objected and has advised that refusal on highway capacity grounds could not be substantiated.
- 6.27 Notwithstanding this, the applicant has recognised the concerns of the Parish Council and local residents regarding quarry traffic passing through Condover and has put forward a comprehensive mitigation package. This includes proposals for a satellite depot and payment of @£115k in total (@£65k from the current application) towards highway maintenance / mitigation – subject to agreement with the Parish Council. The Transport Statement identifies that the quarry contributes between 25 and 50% of heavy traffic through Condover. There is no mechanism available to recover equivalent funding from other non-quarry HGV traffic. In this respect the current proposals offer the opportunity to provide some mitigation for all HGV traffic. It is concluded that any residual highway impacts after mitigation would not be sufficiently severe to justify refusal on highway grounds.
- 6.28 Noise: The NPPF requires Mineral Planning Authorities to have regard to the need to protect local residents living near mineral sites from quarry related noise. The technical guide to the NPPF provides further guidance on the levels of noise which are acceptable (s30). Subject to a maximum of 55dB(A) LAeq, 1h, MPA's should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dB(A) LAeq, 1h. Increased daytime limits of up to 70dB(A) Leq 1h are also allowed for short-term operations up to 8 weeks per year where this would generate benefits such as improved screening (NPF Guide s31).
- 6.29 The Environmental Statement includes a noise report which predicts noise levels at the nearest sensitive properties in accordance with methodology set out in national guidance (BS 8233, BS4142, WHO guidelines and NPPF). The report concludes that calculated noise levels from the proposed development do not exceed relevant criteria and are unlikely to generate noise complaints from any of the locations assessed.

Public Protection has not objected to the proposals. There is no history of noise complaints at the site and the proposed workings would be separated and set down relative to the nearest residential properties. A condition controlling noise has been recommended in Appendix 1. Subject to this it is considered that noise is capable of being controlled acceptably at the site.

- 6.30 Dust / Air Quality: The Environmental Statement has considered the potential for different activities to generate dust and methods of controlling dust have been identified in accordance with a Dust Action Plan. A source of water for dust suppression would be retained permanently on site. The nearest privately owned properties are separated by distance and existing topography and workings would be set down relative to these properties. The ES concludes that the proposed measures would ensure that dust continues to be controlled within acceptable levels. These conclusions are generally supported by experience of the existing workings where there has been a general absence of previous dust related complaints. An appropriate condition covering dust control has been recommended.
- 6.31 Visual Impact: The site is not located within a nationally designated landscape. The existing quarry and the proposed development are located to the west of Condover Park, a Registered Historic Park and Garden.
- 6.32 A landscape appraisal identifies the current baseline situation including landscape character and visual receptors who have potential views of the site and the proposed development. The appraisal concludes that the effect on the landscape would be moderate beneficial following restoration due to reinstatement of the proposed valley landform. Visually there would be a substantial impact to residents of Gonsal House during working. It is proposed to place temporary straw bales of ~3m in height along the boundary of the Southern Extension. These bales will mitigate views of the site from ground level windows and the garden / curtilage. There are not many upper floor windows which face the direction of the proposed development. The occupant of this property has written in support of the proposals. There would be a slight to moderate adverse visual effect for 10 other nearby properties.
- 6.33 Visually the existing site and the proposed extension are well contained, being set down relative to surrounding areas and surrounded by mature vegetation from most potential viewpoints. The assessment concludes that the landscape can accommodate the proposals and would not give rise to any significant adverse impact with the exception of mitigated views from Gonsal House. The visual assessment concludes that the landscape and visual effects resulting from the proposed development would be temporary, progressive and localised. It is considered that the design and temporary nature of the proposals and the contained nature of the site should ensure acceptability in relation to landscape and visual impacts.
- 6.34 Agriculture: The NPPF advises (para. 170b) that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. An agricultural report concludes that all of the land in the 4.9ha extension area is of best and most versatile quality with 1.27ha (25.9%) being Grade 1, 1.28ha (26.1%) being Grade 2 and 2.35ha (48%) being Grade 3a. The restoration proposals involve formation of a 2ha agricultural field 100m to the

north-east of the southern extension area. The best quality soils (Grade 1 and 2) would be reserved for use in this area. Grade 3a soils would be used to form areas of acid grassland surrounding the proposed central lake where the soil resource would be conserved and the land would remain available for grazing use (see Plan 3 above).

- 6.35 It is not considered that an objection can be sustained on the basis of loss of 2.9 ha of best and most versatile land given the overriding need to achieve a restoration which complies with the requirements of the Habitats Regulations. Appropriate detailed agricultural conditions have been recommended in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to relevant development plan policies and guidance covering agricultural land including NPPF paragraph 170b and Core Strategy Policy CS17.
- 6.36 Archaeology: An archaeological assessment concludes that the extension area has a low to moderate potential for significant archaeological remains. There is no to negligible indications of Palaeolithic, Mesolithic, Iron Age and Roman archaeology within the site and its surrounding vicinity. There is trace of Neolithic to Bronze Age activity surrounding the site but not within it. Medieval remains have no evidence of presence within the site boundary and the potential for activity of this period is assessed as negligible. There is moderate potential for Post-Medieval features to exist however they are of no more than local significance. Three conservation areas and a number of listed buildings lie in the broad vicinity of the site, however, these are mostly at least 500m or more distant from the proposed extension area and are largely screened by existing tree lines or as a result of local topography. Overall, no clear archaeological or cultural heritage constraints have been identified that would render the proposals contrary to the objectives and policies of the development plan.
- 6.37 Ecology: An ecological assessment accompanying the EIA advises that no statutory / non-statutory sites of nature conservation interest have been identified in any locations which could be impacted upon by the proposals. Two populations of Great Crested Newts within the existing site are of national significance. Other habitats of local value adjacent to or within the site include semi-natural broadleaved woodland adjacent to the Cound Brook, unimproved acid grassland, open standing water, open running water, species-rich hedgerow along the southern side of Grange Lane, invertebrate assemblages associated with acid grassland, wetland, bare ground and ephemeral/short perennial habitats, breeding dunnock, bat foraging and badger - setts and foraging.
- 6.38 The on-going previously permitted works at Gonsal Quarry are being undertaken under European Protected Species (EPS) mitigation licences from Natural England (licence references are 2019-42258-EPS-MIT and 2019-39762-EPS-MIT-1 copies are available on request). Two licences were issued because the licence application was made under new licensing policy 1 which allows for incidental killing. These licenses were obtained under the existing planning permission. Minor modifications to these licences may be required as a result of any permission relating to the current application. However, working linked to any permission for the current application would be capable of proceeding initially under the existing license.
- 6.39 It should be noted that the proposed restoration scheme associated with the current application provides even more potential breeding and high quality terrestrial habitat than that currently licenced. The applicant is willing to accept a new planning condition

with respect to GCN. This would stipulate that whilst the quarry can continue working in accordance with the existing licences and good practice guidelines, if a modification to the licence is required then this shall be applied for within one month of any permission.

- 6.40 The assessment concludes that providing all proposed mitigation and compensation measures are undertaken ecological habitats and species will benefit to a greater extent than currently. All legally protected species recorded on the Site will be protected throughout the duration of the works and mitigation, compensation and enhancement measures will be undertaken wherever necessary.
- 6.41 The proposed works and restoration scheme have been specifically designed to avoid or minimise adverse impacts on wildlife habitats and to retain them in-situ where feasible. The ecology report predicts no adverse residual impacts on features of nature conservation value. Positive impacts are predicted for most habitats which may increase in value as they mature. The restoration works within the existing void are therefore capable of being managed separately to ensure that they are not affected by ongoing quarrying and mineral processing activity elsewhere within the site.
- 6.42 Ecology – Habitats Regulations: The 2010 Habitats Regulations implement EU Directive 92/43/EEC (the Habitats Directive) which has been transposed into UK statute following Brexit. Article 12 of the Directive contains a range of prohibitions seeking to protect certain species (European Protected Species). Article 16 provides for a number of circumstances in which a Member State may derogate from the obligations in Article 12. The Habitats Regulations (Regulation 41) make a breach of the Article 12 provisions a criminal offence. This is implemented by way of a licensing regime (Regulation 53). Regulation 9(5) provides that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. A Planning Authority is a competent authority for the purposes of these Regulations and must consider the likelihood of a license being granted, in deciding whether to grant planning permission. The licencing authority is Natural England. In this particular case a large meta population of Great Crested Newts, a European Protected Species, are present in the worked out area of the quarry.
- 6.43 Natural England advises that three tests should be applied by Planning Authorities in assessing the potential impact on protected species. These are assessed as follows with respect to the Great Crested Newt population at Gonsal Quarry:

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

Officer response: The amended restoration proposals have been designed specifically to protect and enhance the habitat of GCN within the site and have been formulated in the context of an existing Protected Species license for GCN issued by Natural England. With respect to the proposed southern extension area, this is spatially separate from the identified GCN habitat area in the worked out quarry void and is capable of being isolated and managed separately during the on-going quarrying operations. As existing intensively farmed agricultural land located some distance from the main water bodies containing GCN the extension area would reasonably be expected to have limited value as a GCN terrestrial

foraging habitat. Much better foraging habitats exist nearer to the GCN water bodies, including to the west of the site adjacent to the Cound Brook. The intended working area beneath part of the plant site already has the benefit of planning permission for mineral working. Planning officers are satisfied in principle therefore that the further mineral extraction proposals should not impact adversely on GCN habitats elsewhere within the site and that the restoration proposals have the potential to significantly enhance the GCN habitat. Additional detailed safeguards with respect to GCN would be agreed as part of any amendment to the existing Protected Species Licence issued by Natural England. The first test is therefore met.

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

Officer response: The current restoration proposals for the existing quarry void are subject to an existing protected species license issued by Natural England. It is of primary importance to secure the productive afteruse of this area as a wildlife reserve for GCN. Further mineral working is capable of being undertaken in principle without impacting adversely on ecological interests within the area of restoration, given that the proposed areas for continued operation and restoration are spatially separate within the site. Restoration proposals would extend the GCN habitat into the extension area, further enhancing and extending this habitat. The second test is therefore met.

3. Is there 'no satisfactory alternative'?

Officer response: Paragraph 203 of the NPPF advises that 'Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation'. The alternative of leaving the proposed extension area unworked would not be acceptable as it would result in sterilization of mineral in an allocated quarrying area and in conflict with SAMDev Policy MD16. The applicant's ecological report supports the conclusion that the proposal to work additional mineral in a separate area of the site would impact adversely on GCN interests. Therefore, there is no requirement to consider alternative proposals for mineral working. The third test is therefore met.

6.44 It is concluded that the proposals are capable of being accepted in relation to relevant policies and guidance covering ecology, including Core Strategy Policy CS17. This is provided robust mechanisms are put in place to ensure that the potential habitat benefits referred to in the ecology report are delivered in practice. Appropriate ecological conditions are recommended in Appendix 1 with this objective in mind. Aftercare management of the site is considered in the succeeding section.

6.45 Aftercare Management: The NPPF (paragraph 204h) requires Mineral Planning Authorities such as Shropshire to put in place policies to ensure worked land is reclaimed at the earliest opportunity. High quality restoration and aftercare of mineral sites should take place, 'including for agriculture, geodiversity, biodiversity, native woodland, the historic environment and recreation'. SAMDev Policy MD17 and Core Strategy Policy CS20 support this objective. The current application adopts an



integrated approach to site restoration and aftercare within the whole quarry site. This would be supported by recommended conditions and legal obligations set out in Appendix 1 including a requirement for 10 years aftercare for habitat areas.

- 6.46 It is considered that the applicants' aftercare management proposals for the wider quarry site meet and exceed the requirements of the paragraph 204 of the NPPF and SAMDev Policy MD17. They also have the potential to deliver significant interconnected habitat areas within the restored site in accordance Core Strategy Policy CS17.
- 6.47 Hydrology and water resources: A hydrological assessment concludes that any potential risks to groundwater and flows within the Cound Brook can be adequately controlled using established good practice measures. There have been no incidences of silt pollution or flooding attributed to quarrying operations previously and the proposed extension would occupy a limited area within the overall quarry site. The proposed extension area is located outside of the flood plain. The restoration proposals involve provision of a series of ponds where levels will be controlled by natural soakaway effect. A one in 100 year flood event would equate to an average increase in the depth of water across the restored area of 60 mm. Sufficient storm water storage would also be provided within the operational site to deal with a 1 in 100-year event, with provision for temporary discharges to the Cound Brook under an existing Environment Agency discharge consent. Dewatering water would continue to be discharged to the Cound Brook so there would be no significant net effect on the flows in this watercourse.
- 6.48 The Environment Agency has not objected subject to conditions on pollution control which are included in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to development plan policies and guidance covering hydrology including Core Strategy policy CS18.

#### Other issues

- 6.49 Socio-economic: The existing Quarry contributes, in financial terms, to the economy, much of which is spent locally on goods and services, including salaries, business rates, service contracting, hire of equipment and capital expenditure. The Quarry supports a total of approximately 5 jobs on site and further indirect employment, including for owner-drivers of quarry vehicles. Much of the employment generated is of a skilled and semi-skilled manual nature under-represented in the local economy. These effects would be maintained.
- 6.50 Infrastructure Contribution: The applicant has agreed to pay a sum equivalent to 9 pence per tonne towards maintenance of the public highway with respect to the mineral in the current application area. This is equivalent to a legal commitment made with respect to the current quarrying consent. Furthermore, the applicant has agreed to front load this payment so that funding to facilitate agreed highway improvements will be available to the Highway Authority at an early stage in the proposed development.
- 6.51 Interactions and cumulative effects: The Environmental Statement contains an assessment of interactions between different types of impact. It concludes that the restoration proposals would not involve any negative interactions as agricultural and ecological uses and landscape continuity would be maintained. The proposed

management measures for the restored site should assist in ensuring positive interactions between different aftercare land uses.

6.52 Carbon management and climate change: The proposals would not lead to an increased risk of flooding. The restoration proposals would lead to increased habitats, thereby helping to manage the effects of climate change on biodiversity. The applicant has committed to ensure energy efficiency and to reduce the carbon footprint of its operations. As a local supplier of sand and gravel the company is able to reduce the distance and hence the amount of transportation between its mineral products and its customers. If the current proposals were not to proceed then local customers would have to source aggregate from further afield, thereby increasing the carbon footprint.

## 7. CONCLUSION

7.1 In conclusion, the proposals relate to an allocated mineral site and would secure production at Gonsal Quarry for up to 4½ further years at the anticipated production rate of 150,000 tonnes per annum. The mineral is a proven resource with an established local market and would contribute towards the county's agreed proportion of sand and gravel production in the West Midlands region. This is in accordance with paragraph 207 of the NPPF and Core Strategy Policy CS20. The proposals would also facilitate a revised and comprehensive restoration and management for the whole quarry. This takes account of protected species interests and would achieve significant habitat creation benefits in accordance with Core Strategy Policy CS17.

7.2 Condover Parish Council and local residents have objected on the basis that the proposals would involve continued use of the road through Condover by quarry traffic. The proposals do not involve provision of a new access to the A49 which is referred to in the development guidelines accompanying SAMDev Policy MD5b. However, the limited amount of mineral in the current site is insufficient to fund the major cost involved and the applicant has also concluded that a new access is not viable in practical terms. The current application therefore proposes continued access through Condover at a level which is at or below that of historical traffic movements from the quarry.

7.3 Highway officers have not objected and have advised that refusal on highway capacity grounds could not be substantiated. The applicant has put forward a number of mitigation measures including a proposal to use a depot at Norton Farm north of Condover in order to allow quarry traffic levels to be equalised out to remove periods of more intensive activity and to avoid school drop off and pick up times. The operations would also generate significant funding for highway mitigation and maintenance works over the anticipated 4½ year duration of the mineral extraction. Whilst the concerns of the Parish Council and local residents are noted it is considered that the applicant has put forward appropriate mitigation measures for these temporary mineral working proposals and that such measures may deliver some mitigation for other non-quarry HGV's which also use the route through Condover which might not otherwise be possible.

7.4 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 which would justify refusal once mitigation has been taken into account. This is having regard to the inbuilt safeguards in the design of the scheme and the recommended planning conditions.

The proposals also have the potential to significantly enhance the habitat potential of the restored site. It is concluded that proposals are sustainable and can be accepted in relation to relevant development plan policies and guidance and other material planning considerations.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

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

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

8.2 Human Rights: Article 8 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: 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: 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 Guidance and Planning PoliciesNational Planning Policy Framework: Summary of relevant minerals guidance:9.1 Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt) – allowing for development on appropriate sites within the countryside that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: required community uses and infrastructure which cannot be accommodated within settlements;
- Policy CS6 (Sustainable Design and Development Principles) – requiring designs of a high quality to respect and enhance local distinctiveness, mitigating and adapting to climate change
- Policy CS8 (Facilities, Services and Infrastructure Provision) – seeking the development of sustainable places by preserving and improving facilities and services; facilitating the timely provision of additional facilities, services and infrastructure to meet identified needs in locations that are appropriate and accessible; positively encouraging infrastructure where this has no significant adverse impact on recognised environmental assets
- Policy CS9 (Infrastructure Contribution);
- Policy CS16 (Tourism, Culture and Leisure);
- Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets;
- Policy CS18 (Sustainable Water Management) – to reduce flood risk; to avoid an adverse impact on water quality and quantity
- Policy CS20 (Strategic planning for Minerals) Note: Gonsal Quarry associated with the current application is within an area identified as a broad location for future mineral working in the plan accompanying policy CS20.

9.2 SAMDev Plan:

- MD2 – Sustainable Design
- MD4 - Managing Employment Development
- MD5 - Sites for Sand and Gravel Working
- MD7b– General Management of Development in the Countryside
- MD12: The Natural Environment
- MD13: The Historic Environment
- MD15 - Landfill and Landraising Sites
- MD16 - Mineral Safeguarding
- MD17: Managing the Development and Operation of Mineral Sites

## 10. RELEVANT PLANNING HISTORY:

- 13/00336/EIA Proposed extension to Gonsal Quarry and restoration for nature conservation benefits including water areas, woodlands, species rich conservation grassland and associated landscaping works incorporating new woodland planting together with the retention of the existing processing plant, silt lagoons and haul route. GRANT 25th April 2018
- 18/05003/DIS Discharge of condition 8(a)b) (Hedgerows) 16(a) (Groundwater Monitoring) 16(b) (Trigger Levels) 17 (Hydrology) 23(c) (Noise Monitoring Scheme)

24(a) (Details of Reversing Alarms) 25(b) (Dust Monitoring Scheme) 31(a) (Details of Fencing and/or Boundary Treatments) 35(i-vi) (Measures for Slope Stability) 36 (Soil Bunds) 37 (Soil Handling Strategy) 49(b) (Restoration and Landscaping) 50 (Habitat Management Plan) attached to planning permission 13/00336/EIA Proposed extension to Gonsal Quarry and restoration for nature conservation benefits including water areas, woodlands, species rich conservation grassland and associated landscaping works incorporating new woodland planting together with the retention of the existing processing plant, silt lagoons and haul route. DISPAR 25th January 2019

- 19/00178/SCO Minor southern extension and release of previously sterilised mineral utilising existing processing plant, silt lagoons and access with associated restoration for habitat creation and wildlife enhancement SCO 2nd April 2019
- 20/03173/MAW Formation of southern extension; new extraction beneath existing lagoons and progressive restoration for a period of 6 years PDE
- SA/77/0755 Extension of sand and gravel workings - discharge conditions 7, 10, 2, 13 and 14 attached to planning permission ref. No. S73/5561 dated 30th July 1975. PERCON 2nd November 1977
- SC/MS1998/0659/SY Erection of plant for the production and distribution of ready mixed concrete and screeds NPW 5th June 2017
- SC/MS1988/1170/SY Extension to existing quarry and restoration to agricultural use PERMIT 1st January 1994
- SA/77/0921 Erection of workshop. PERCON 17th January 1978

11. ADDITIONAL INFORMATION

Link to application documents:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QEOTNJTD07U00>

List of Background Papers: Planning application reference 20/03173/MAW and the related Environmental Impact Assessment, plans and supplementary reports as listed fully in condition 3 of Appendix 1 attached.
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Cabinet Member (Portfolio Holder) Cllr Gwilym Butler
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Local Member Cllr. Dan Morris
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Appendices: APPENDIX 1 - Legal obligation heads of terms and recommended conditions
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## APPENDIX 1

### **Legal Agreement Clauses**

- 1) To agree to an extended period of aftercare for all habitat areas within the total quarry site (including areas worked and restored under previous permissions) which will apply to all identified habitat areas within the Site for a period of 10 years from completion of restoration in each habitat area.
- 2) To agree to manage the aftercare habitat areas within the total quarry site in accordance with the principles set out in the habitat management plan required under Condition 51 below.
- 3) To convene and support an aftercare management steering group throughout the extended aftercare period which shall meet no less than annually and shall comprise representatives from the company, Shropshire Council, the Company and other relevant stakeholders where appropriate. The Steering Group shall review aftercare management actions from the preceding year and will agree the detailed actions for the forthcoming year;
- 4) To agree to use all reasonable endeavours to maintain appropriate control of the necessary land in order to facilitate the objectives of clauses 1 and 2 above;
- 5) To maintain the existing heavy vehicle routing agreement to ensure quarry lorries turn left towards Condover and approach the site from the north, except in case of emergencies or where local access is required.
- 6) To make a payment to the Council based on 9p per tonne for the of mineral exported from the site under this permission for use in maintaining and improving the quarry access route on the public highway through Condover to the A49. This shall be as a single payment to be made within 1 year of the date of any planning permission.

### **Conditions**

#### COMMENCEMENT OF DEVELOPMENT

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission. For the avoidance of doubt development is defined as the commencement of soil stripping within the extension area to the south of the quarry plant site. The commencement of development within the Site is hereafter referred to as the "Commencement Date".

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

#### DEFINITION OF THE SITE AND PERMISSION

2. This permission shall relate to the land edged red on Drawing No. M05108(h).D.001(Rev A) hereinafter referred to as "the Site" and comprising the "existing quarry" and the "extension area" to the south of the existing quarry plant site

Reason: To define the Permission.

#### DEFINITION OF THE PERMISSION

3. Except as otherwise provided by the conditions attached to this permission the development hereby permitted shall be carried out strictly in accordance with:-
- i. The submitted details as contained in the application form dated 4<sup>th</sup> August 2020.
  - ii. The following documents supporting the application:
    - The planning and Environmental Statement dated July 2020;
    - The Non-Technical Summary dated July 2020;
    - The appendices accompanying the Environmental Statement, namely:
      - Appendix A – Landscape and Visual Appraisal;
      - Appendix B – Ecological Appraisal;
      - Appendix C – Archaeology and Cultural Heritage;
      - Appendix D - Noise and Dust Environmental Scheme;
      - Appendix E – Agricultural Land Classification and Soils;
      - Appendix F – Heritage Impact Assessment;
  - iii. The submitted drawings accompanying the Environmental Statement, namely:
    - M05108(h).D.001(Rev A) - Location Plan;
    - M05108(h).003(Rev A) - Block Phasing;
    - M05108(h).004(Rev A) - Working Sequence 1;
    - M05108(h).005 (Rev A) - Working Sequence 2;
    - M05108(h).006 (Rev B) - Working Sequence 3;
    - M05108(h).007 (Rev C) - Final Restoration;
    - M05108(h).008 (Rev C) - Overall Restoration;
    - M05108(h).009 (Rev B) - Schematic Sections.
  - iv. The supplementary information submitted in support of the application, namely:
    - The Transport Assessment by The Hurlstone Partnership (November 2020);
    - The letter from Stantec to Environment Agency dated 12<sup>th</sup> November 2020;
    - The memo from Robin Smithyman to the Local Planning Authority dated 21<sup>st</sup> January 2021 concerning highway matters.

Reason: To define the permission.

#### TIME LIMITS

- 4a. The extraction of sand and gravel from the Site under the terms of this permission shall cease within 5 years of the Commencement Date as defined in Condition 1 above.
- b. The date when extraction of sand and gravel has been completed within the Site under the terms of this permission shall be notified in writing to the Local Planning Authority.

Reason: To define the completion date for mineral extraction operations under the terms of the permission in accordance with the approved details.

5. The Site shall be fully restored within 18 months of the completion of mineral extraction

under the terms of this permission and in accordance with scheme required to be approved under Condition 50 below.

Reason: To ensure the full and proper restoration of the Site within acceptable timescales.

6. The Local Planning Authority shall be notified in writing of the following events:-
- i. the commencement of topsoil stripping and mineral extraction in the extension area;
  - ii. the commencement and anticipated completion of restoration in each successive phase within the Site.

Reason: To ensure satisfactory monitoring following the Commencement Date for the various specified operations with the Site.

#### GPDO RIGHTS

7. Notwithstanding the provisions of Part 17 of the Second Schedule of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order, the erection of any additional plant or machinery or structures or erections of the nature of plant or machinery shall not take place within the Site without the prior written approval of the Local Planning Authority. The only exception to this shall be for structures not exceeding 6 metres in height which are located within the existing Processing Plant area identified on the approved plans.

Reason: To enable the control of any further development within the Site.

#### PLANTING AND SCREENING OPERATIONS AND OTHER PRELIMINARY OR ASSOCIATED WORKS

- 8a. All trees, hedgerows and bushes within the Site but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works by fencing or other means.
- b. A scheme detailing measures to ensure continued protection of the existing mature hedgerows and woodland within the margins of the Site shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this permission.

Reason: To preserve and protect existing vegetation within the Site.

9. No soil storage shall take place other than in accordance with the details shown on the approved working plans as referred to in condition 3 above.

Reason: To ensure that satisfactory preservation of soils for restoration of the Site.

#### HOURS OF WORKING AND GENERAL CONTROL OVER OPERATIONS

- 10a. Unless otherwise approved in writing by the Local Planning Authority, or except in the case of emergency, records of which shall be retained for inspection by the Local Planning Authority, the quarrying and associated processing operations and uses hereby permitted



shall not take place outside the following hours:-

Mondays to Fridays 07.30 - 17.00 hours

Saturdays 07.30 - 16.30 hours (Maintenance Work only)

No operations shall take place on Sundays, Bank Holidays or other National Holidays.

- b. Access gates located at the entrance to the Site shall be locked or managed to ensure that no heavy goods vehicles enter the Site before 07.15 hours.

Reason: To safeguard the amenities of the area.

11. Measures shall be implemented to avoid the possibility of vehicles waiting outside the site prior to the permitted opening hours as specified in condition 10a above.

Reason: In the interests of highway safety.

- 12a. The total amount of mineral processed and dispatched from the Site under the terms of this permission shall not exceed the following levels:

- i. 50,000 tonnes per year before the highway maintenance payment has been made under the legal agreement attached to this permission;
- ii. 100,000 tonnes per year upon payment of the highway maintenance contribution;
- iii. 150,000 tonnes per year upon any bringing into use of the proposed satellite depot at Norton Farm Condover under planning application reference 20/05371/FUL .

For the purposes of this condition a year shall comprise a calendar year commencing on 1st January and ending on 31st December of that year.

- b. Written records of the tonnage of mineral produced from the Site shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: In accordance with the approved scheme and to ensure that the production and dispatch of minerals is controlled at a level which is designed to protect the amenities of the local area.

- 13a. The total amount of minerals processed and dispatched from the Site as restricted under the provisions of Condition 12a above shall include no more than 15,000 tonnes per year of other aggregates for use in the processing plant or for blending.

- b. Any minerals imported to the Site shall only use the access to the Condover road as shown on the approved plans. Written records of the tonnage of minerals imported to the Site shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: To ensure that the import and export of materials is controlled at a level which is designed to protect the amenities of the local area.

14. There shall be no vehicular access or egress for vehicles engaged in the supply of sand and gravel extracted from the Site or the associated processing plant area other than by way of the existing quarry entrance onto the Class 3 Condover road.

Reason: To ensure that mineral vehicles travelling to and from the Site only use the approved Accesses to the Site.

- 15a. No bulk fill or waste materials shall be imported to the Site under the terms of this permission.
- b. No soils or soil making materials shall be brought on to the Site unless the prior written approval of the Local Planning Authority has been obtained.

Reason: To ensure that satisfactory control is maintained over the operations at the Site.

#### SITE DRAINAGE, POLLUTION CONTROL AND HYDROGEOLOGY

16. No development shall take place until a 'water monitoring scheme' is submitted to and approved in writing by the Mineral Planning Authority (MPA). The scheme shall be implemented as approved throughout the duration of the development, including the restoration and aftercare period. The Scheme shall include, but may not be limited to:
- water features survey including private water supplies and the Cound Brook;
  - any borehole, well, spring or private water supply that is identified as being at risk of derogation or otherwise negatively impacted by the mineral extraction;
  - water monitoring locations;
  - method and frequency for recording monitoring results (level and quality);
  - method and frequency for reporting of monitoring results to MPA and EA, detailing how and when the monitoring data and the Scheme itself shall be reviewed to assess if any impacts are occurring;
  - methods for investigating the causes of any such impacts and for remediating them.

Reason: To protect the water environment and prevent any deterioration of 'controlled waters' (as defined under the Water Resources Act 1991), including groundwater.

*Note: The Environment Agency advises that the frequency of monitoring should be at least monthly (or longer time-series data via continuous measurement with a data logger) during the mineral extraction phase of development.*

17. If monitoring results from the approved water monitoring scheme provides evidence of any adverse risk of deterioration to groundwater flows and quality, extraction of mineral on site shall cease until a programme to investigate is put in place so that the problem is understood. Informed by the investigation, implementation of effective alternative options and mitigation shall be undertaken to avoid and remedy impacts, with criteria for the review of success and failure of any remediation works, to the satisfaction of the Local Planning Authority in consultation with the Environment Agency, to remedy and ensure compliance with the approved scheme. This scheme shall include for:
- i. methods and analysis for investigating the causes of these changes and for remediating them and
  - ii. Monitoring the success and failures of any remediation works carried out.

Reason: To protect the water environment and prevent any deterioration of 'controlled

waters' (as defined under the Water Resources Act 1991), including groundwater.

18. There shall be no siting of structures or storage of materials and existing ground levels shall not be raised within 8 metres of top of the bank of all watercourses within or fringing the Site.

Reason: To ensure that flood water storage capacity is maintained and access to watercourses is maintained.

19. Throughout the period of working, restoration and aftercare the operator shall take steps to ensure that drainage from areas adjoining the Site is not impaired or rendered less efficient by the permitted operations.

Reason: To ensure the continuing satisfactory drainage of the Site.

20. No domestic sewage disposal shall take place unless the means of such domestic sewage disposal has first been approved in writing by the Local Planning Authority.

Reason: To minimise the risk of pollution.

21. No oil, fuel or chemicals shall be stored within the Site without the prior written approval of the Local Planning Authority. Any storage within bunded areas shall take place in properly constructed facilities consisting of an impervious base and impervious bund walls. The size of the bunded compound shall be equivalent to 110% of the capacity of the stored liquids and all filling points, vents and sight glasses shall be located within the compound.

Reason: To prevent pollution of groundwater and surface water resources.

22. Prior to cessation of mineral extraction under the terms of this permission a scheme detailing measures for the final drainage of the Site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable standard of final drainage for the Site.

#### NOISE, DUST AND LIGHTING

- 23a. Noise attributable to the development hereby approved shall not exceed the following levels at the nearby noise sensitive locations during normal operations:

- i. Grove Farm, Ryton Lodge –and Gonsal House - 48dB(A) LAeq 1h (free field).
- ii. Grange Cottage and Radmore Cottage - 51dB(A) LAeq 1h (free field).

- b. Noise levels shall not exceed 70dB(A) LAeq 1h (free field) at the nearby noise sensitive locations of Grove Farm, Ryton Lodge, Gonsal House, Grange Cottage and Radmore Cottage during temporary operations (no more than a total of 8 weeks in any one year) such as bund formation soil stripping.

- c. A noise monitoring scheme in respect of on-going compliance with the set noise limits shall be submitted to the Local Planning Authority for written approval within 3 months of the date of this planning permission, and shall thereafter be implemented in accordance with

the approved details.

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

24a. Before any extraction of minerals takes place within the Site a scheme incorporating details of the type of reversing alarms to be fitted to vehicles operating within the Site shall be submitted for the approval in writing of the Local Planning Authority.

b. All plant and machinery used within the Site shall incorporate silencers fitted in accordance with the manufacturers' specifications and those silencers shall be maintained in full working order.

Reason: To protect any noise sensitive properties from noise disturbances.

25a. With the exception of the temporary period of the construction of screening mounds and soil storage areas around the edges of the Site, operations shall be controlled so that there shall be no fugitive dust from the Site when viewed at the Site boundaries. In particular internal haul routes within the Site shall be graded and whenever necessary sprayed with water so as to minimise dust emissions from the Site.

b. A scheme setting out measures for the monitoring, control and mitigation of dust in the Site shall be submitted to the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall incorporate details of availability of water for dust suppression, provision for minimising drop heights and a procedure for dealing with any dust related complaints which may be received. Following its approval the scheme required by this condition shall be implemented in accordance with the approved details.

Reason: To protect the amenities of the area from any dust generated by operations within the Site.

26. A water bowser of a type and size appropriate to control dust generated from the haul roads and other working areas within the Site shall be employed on the Site when weather conditions require the suppression of dust.

Reason: To ensure suitable dust suppression measures are employed on the Site particularly during dry and/or windy weather conditions.

27. The processing plant within the Site shall incorporate dust suppression measures including water sprays and such measures shall be maintained in effective working order throughout the duration of the mineral processing operations under the terms of this permission.

Reason: To protect the amenities of the area from dust generated by mineral processing operations at the Site.

28. No new fixed lighting shall be installed at the Site unless the details of such lighting have first been submitted to and approved in writing by the Local Planning Authority. All fixed lighting employed at the Site shall be designed so as to minimize the potential for light spillage and associated visual impact.

Reason: To protect the visual amenities of the area and to reduce the potential for

disturbance to local wildlife.

#### INTERNAL SITE ROADS AND WHEEL CLEANING MEASURES

29. The haul road serving the processing plant shall be regularly maintained and swept to provide a clean and even running surface, free from potholes.

Reason: To protect the amenities of the area to minimise the risk of silt pollution and to ensure a satisfactory access to the Site over the period of mineral extraction.

30. A wheel cleaning system shall be deployed at the site for the duration of the mineral extraction operations hereby approved. All heavy goods vehicles exporting mineral from the Site shall be directed through the wheel wash system before joining the public highway.

Reason: To ensure that wheel cleaning measures are satisfactory over the life of the Site.

#### CONTROLS OVER METHOD OF OPERATIONS

- 31a. A scheme providing exact details of new fencing and / or boundary treatments for the Site during each phase of the minerals development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of mineral extraction under the terms of this permission. The proposed fencing and / or boundary treatments shall be implemented in accordance with the details of the approved scheme.

- b. All the existing perimeter hedges and fences shall be maintained, made stockproof where necessary and protected from damage by the operator until the restoration is completed. Where the Site boundary does not coincide with an existing hedge or fence, the operator shall provide and maintain appropriate fencing until the restoration of the Site is completed. Undisturbed hedgerows within or bounding the Site shall be properly maintained, throughout the period of working and restoration.

Reason: To ensure the Site is enclosed to an acceptable standard and that hedgerows are maintained.

32. The extraction of sand shall not take place other than in accordance with the approved scheme of phased working shown on drawings listed in Condition 3 above. In particular, operations shall be carried out so as to minimize the amount of operational area which is subject to disturbance at any one time.

Reason: To ensure that working of the Site takes place in accordance with the Permitted Scheme.

33. No new buildings or mineral stockpiles shall be constructed at the Site unless further details of any such structures have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any proposals to construct new temporary buildings or mineral stockpiles at the Site are subject to appropriate planning controls in the interest of visual and general amenity.

34. Unless otherwise first approved in writing by the Local Planning Authority mineral shall not

be stockpiled other than in the approved stocking area adjacent to the quarry plant site as shown on the approved block phasing plan accompanying the application (Drawing No. M05108(d)\_01).

- b. At no time throughout the duration of the operations hereby permitted shall the height of stockpiles exceed 10 metres.

Reason: In the interests of general and visual amenity.

#### SLOPE STABILITY

35. A scheme setting out measures for reviewing and ensuring slope stability shall be submitted for the approval of the Local Planning Authority within 6 months of the Commencement Date. The scheme shall incorporate the following measures:
- i. Confirmation of measures for draining areas above excavated slopes throughout the operational and aftercare phases of the Site;
  - ii. A regular visual inspection regime to assess slope stability with a mechanism to report any identified problems to the Local Planning Authority, including investigation / recording of any water seepages, evidence of surface movement or surface erosion features encountered in excavated slopes which could impact on slope stability;
  - iii. A commitment to obtain specialist geotechnical advice on slope stability if necessary where a slope stability issue has been identified;
  - iv. Confirmation of detailed gradients for excavation and final restoration batters within the Site;
  - v. Confirmation of appropriate stand-offs to site boundaries with measures for physical demarcation of these stand-offs;
  - vi. Confirmation of detailed planting seeding measures and timescales to assist in stabilizing excavated slopes as soon as practicable after mineral extraction has ceased in a given phase.

Reason: To preserve slope stability within the Site having regard to the proximity of Telegraph Lane and Bridgwalton House to the excavations.

#### SOIL STRIPPING, MOVEMENT AND STORAGE

36. A scheme setting out detailed provisions for construction of new soil bunds within the Site shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall include details of locations, heights, gradients, seeding timescales and the timetable for bund formation. Following approval of the scheme required by this condition the construction and management of soil bunds shall take place in accordance with the details of the approved scheme.

Reason: To ensure the satisfactory handling and storage of soil resources within the Site.

37. A detailed soil handling strategy shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall include confirmation of controls on soil handling and storage and confirmation of measures to maximise the use of soil seedbanks.

Reason: To ensure the satisfactory handling and storage of soil resources within the Site.

38. No movement of soil shall take place except when the full depth of soil to be stripped or otherwise transported is in a suitable dry soil moisture condition. Conditions shall be sufficiently dry for the topsoil to be stripped and separated from the subsoil without difficulty. Soils should be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils.

Reason: To ensure the satisfactory handling of soil resources within the Extension Site.

39. Before any part of the Site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or is built upon or used for the stacking of subsoil, soil making material or overburden, or for the construction of a road, all available topsoil shall be stripped from that part using dump trucks, front end loading shovels and/or conveyors.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

40. All soil types within the Site as approved by the Local Planning Authority shall be stripped and stored separately and within those soil types, the top and subsoils shall be stripped and stored separately. Any overlap of soil types in a storage mound shall be kept to the minimum necessary for the effective formation of that mound and the interface shall be suitably defined on site and on a record plan provided to the Local Planning Authority so that soil types can be easily located at mound removal stage.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

41. Subsoils shall be stripped from the extraction area to a minimum 75cm in depth and shall be stored for the subsequent restoration of this part of the Site.

Reason: To ensure that sufficient subsoils are reserved for future restoration uses.

42. Within the Site, deeper pockets of soil making material shall be recovered wherever practicable for use in the restoration of the Site.

Reason: To ensure that materials within the Site which will be suitable for restoration works are saved for this use.

43. Mounds of topsoil, subsoil and soil making materials shall be constructed with only the minimum of compaction necessary to ensure stability. They shall be graded and seeded with a suitable grass seeds mixture, and the sward shall be managed throughout the period of storage including the removal of any weeds at an early stage of growth.

Reason: To ensure the satisfactory preservation of soils for restoration of the Site.

44. Following topsoil and subsoil stripping in each stage or part of the defined stage of the Site, no mineral extraction shall commence until a written statement has been received from the Local Planning Authority confirming that the relevant stage or the relevant part of it has been inspected and that all soils or soil-making materials have been stripped to the satisfaction of the Local Planning Authority, for use in the restoration of the Site.

Reason: To ensure that sufficient soils are reserved for restoration purposes.

45. Whenever possible, in accordance with the progressive working and restoration of the Site, soils stripped from a stage or sub-stage of extraction shall be immediately used for the restoration of a previously worked stage or sub-stage of the Site. Soils shall be replaced in the correct order with sub-soils and soil making materials placed in advance of topsoil.

Reason: To ensure that sufficient soils are reserved for restoration purposes.

- 46a. Stripping, movement, storage and subsequent replacement of soils shall only be undertaken using a back-actor, front end loading shovels, dump trucks and/or conveyors.

Reason: To minimise possible damage to soils for use in future restoration.

- b. Stocking of soils in mounds shall be to a maximum height of 5 metres and such mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability.
- c. Run-off from soil storage areas shall be contained within the Site or intercepted via peripheral drains and settled out through on-site treatment facilities prior to any discharge from the Site.

Reason: To ensure the satisfactory conservation of soils, the proper construction of soil storage areas and to prevent the pollution of the Mor Brook or other surface waters.

47. No turf, topsoil or subsoil shall be removed from the Site.

Reason: To ensure that sufficient soils are retained for the comprehensive restoration of the Site.

48. Within 3 months of the formation of any soil storage mound in accordance with the approved plans the quantities shall be measured and supplied on an appropriate plan to the Local Planning Authority.

Reason: To ensure that sufficient soils are retained for the comprehensive restoration of the Site.

#### ECOLOGY, LANDSCAPING AND RESTORATION

49. Operations under the terms of this permission shall take place in strict accordance with the existing European Protected Species (EPS) Mitigation Licence with respect to Great Crested Newts. If a modification to this license is required by Natural England then this shall be applied for within one month of the date of this permission.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species.

Note:

*Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger*



*Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.*

- 50a. The Site shall be restored progressively in accordance with the general principles of restoration as shown on the permitted restoration plans, namely M05108(h).007 (Rev C) - Final Restoration and M05108(h).008 (Rev C) - Overall Restoration.
- b. Within 2 months of the date of this permission a detailed scheme of restoration and landscaping shall be submitted to the Local Planning Authority for approval in writing and these works shall be carried out as approved. The submitted scheme shall include:
- i. Planting plans, including wildlife habitat and features (e.g. sand banks, hibernacula, bat and bird boxes, species-rich grasslands) showing location and number of each;
    - Tree and shrub species lists for mixed native hedgerow and woodland creation; (Woodland to be of NVC community types appropriate to the area and specific site conditions);
    - Numbers and planting patterns / mixes of trees and shrubs for hedge and woodland creation;
    - Means of ground preparation and planting pit specification where relevant;
    - Measures for tree protection and support (eg rabbit spirals and bamboo canes, or stakes and ties, or tree guards / shrub shelters);
    - Early years maintenance schedule (eg mulching and / or weeding, straightening and eventual removal of stakes and ties);
    - Replacement of losses as appropriate to achieve 90% survival rates after 5 years;
    - Timing of commencement and completion of the various phases of the scheme;
    - scale plans of the proposed planting sites;
  - ii. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
  - iii. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
  - iv. Native species used to be of local provenance (Shropshire or surrounding counties);
  - v. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
  - vi. A scheme for the formation and treatment of all lakes to be established as part of the restoration of the Site including depths of the lakes, 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;
  - vii. A scheme for the restoration of the plant and stocks area and silt lagoons area;
  - viii. Implementation timetables.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate

51. A detailed habitat management plan shall be submitted to and approved by the Local Planning Authority within 3 months of the Commencement Date and shall include:
- i. Description and evaluation of the features to be managed;
  - ii. Ecological trends and constraints on site that may influence management;
  - iii. Aims and objectives of management;

- iv. Appropriate management options for achieving aims and objectives;
- v. Prescriptions for management actions;
- vi. Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
- vii. Personnel responsible for implementation of the plan.
- viii. Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance and maintain created habitat.

- 52a. All trees, hedgerows and shrubs within the Site boundary but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works to the reasonable satisfaction of the Local Planning Authority.
- b. No disturbance shall take place to any established trees or shrubs within or surrounding the Site until after the end of the bird nesting season (March - June inclusive), unless a supplementary ecological survey has been submitted to and approved in writing by the Local Planning Authority which shows that the affected vegetation is not being used by any nesting birds.

Reason: To preserve and protect existing vegetation within the Site which is not allocated for removal and to safeguard any nesting bird species.

- 53a. All buildings, plant and machinery within the Site which have been installed in connection with the operations authorised under this permission or any previous permission relating to the Site, shall be demolished, and removed from the Site within twelve months of completion of mineral extraction and the sites of such buildings, plant and machinery shall be restored in accordance with the provisions of the scheme referred to in Condition 50b above.
- b. All access and haul roads which have not previously been approved for retention by the Local Planning Authority in connection with the approved restoration and aftercare schemes shall be removed in accordance with the provisions of the scheme required by condition 50 above.

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

#### RESTORATION OF AGRICULTURAL AREAS

- 54a. Restoration of the Site involving soil replacement shall be carried out in dry ground and weather conditions. Soil shall be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils. All subsequent cultivation treatments shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise soil damage and to maximise the effects of the subsoiling and rooting operations.
- b. Movement of soils shall be carried out using low ground pressure equipment and in particular earth scrapers shall not be used for restoring best and most versatile agricultural

land. Soils from areas scheduled for restoration to best and most versatile agricultural land shall be restored using the dump truck/loose tipping method in narrow strips of approximately 10 metres width. In particular dump trucks shall not travel on the replaced soils and any machinery travelling over the soils shall be kept to the minimum necessary to spread the soil and achieve a satisfactory restoration.

- c. During the replacement of soils and other materials the restoration of the Site shall be carried out in a sequence which shall prevent the mixing of topsoil, subsoil making material and overburden.

Reason: To ensure the satisfactory handling and spreading of soils for restoration.

55a. Following the cessation of mineral extraction and before the replacement of subsoil, the upper layers of the sandpit base shall be subsoiled (rooted) with a heavy duty subsoiler. Such treatment shall ensure that there is:-

- i. no material injurious to plant life
- ii. no rock, stone, boulder or other material capable of preventing or impeding normal agricultural or land drainage operations including subsoiling.
- iii. no wire rope, cable or other foreign objects.
- iv. a reasonably level, but uncompacted, surface to receive subsoil.

- b. Stones with a diameter in excess of 10 cm and other deleterious materials shall be removed from the Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

56a. A minimum of 90 cm of subsoil shall be re-spread evenly over those areas approved to receive such subsoil. The subsoil shall be treated in accordance with the general requirements of Condition 54 above. Except where soils are being loose tipped no layer of replaced soil shall exceed 300mm thickness before it is subsoiled (rooted) and the subsoiling operation must penetrate at least 150mm into the underlying layer to relieve compaction at the interface. Subsoil upon which other soils have been stored shall also be subsoiled (rooted) in the same manner.

- b. Stones with a diameter in excess of 10cm or other deleterious materials shall be removed from Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

57a. After satisfactory replacement and treatment of the subsoil, a 30 cm layer of topsoil shall be re-spread evenly over those areas approved to receive such topsoil. The topsoil shall be subsoiled (rooted) and cultivated and topsoil upon which other topsoil has been stored shall be subsoiled (rooted) and cultivated in the same manner.

- b. All operations involving soil replacement and cultivation treatments shall only be carried out

when the full volume of soils involved is in a suitable dry soil moisture condition.

Reason: To ensure the satisfactory restoration of the Site.

58. Stones with a diameter in excess of 10cm and any other material in the restored soil profile which is deleterious to the establishment of the proposed afteruses shall be removed from the Site or buried at considerable depth in a manner to be the subject of the prior approval of the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

59. Prior to cultivation of the replaced soils in each stage of restoration a formal inspection shall take place with the Local Planning Authority to ensure that the restoration levels are in general accordance with the levels set out in the approved Restoration Plan and that the contours are suitable for future reinstated agricultural operations.

Reason: To ensure this satisfactory restoration of the Site.

- 60a. On the completion of restoration all fixed equipment, machinery and buildings shall and areas of the site haul roads which are not required in association with the approved afteruse shall be removed from the Site.

- b. Field water supplies shall be provided in those parts of the Site which are returned to agricultural uses.

Reason: To ensure the satisfactory restoration of the Site.

61. Where each progressive stage of restoration within the Site incorporates the planting of hedgerows and trees, such planting shall be implemented in accordance with a detailed specification supplied to and approved in writing by the Local Planning Authority and the work shall be carried out within the first planting season following restoration.

Reason: To ensure the satisfactory restoration of the Extension Site.

#### AFTERCARE

- 62a. All agricultural areas shall undergo aftercare management for a 5 year period, commencing on the date at which the restoration is completed to the satisfaction of the Local Planning Authority.

- b. All areas of habitat based restoration incorporating lakes, grassland and woodland shall undergo aftercare management for 10 years in accordance with the provisions of the legal obligation accompanying this permission beginning from the date when restoration has been completed in each phase or restoration block under the terms of this permission.

Reason: To bring the land to the required standard for agricultural use and wildlife habitats.

63. Detailed aftercare schemes for 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 agriculture, including as appropriate:

- i. minor regrading works as necessary to alleviate the effects of settlement and surface ponding;
- ii. measures to reduce the effects of compaction;
- iii. fertiliser and lime application;
- iv. cultivation works;
- v. reseeded where necessary of any parts of the area sown which do not provide a satisfactory plant growth in the first year;
- vi. grass cutting or grazing;
- vii. replacement of hedge and tree failures;
- viii. weed and pest control;
- ix. drainage including the construction/maintenance of ditches and soakaways;
- x. field water supplies
- xi. under drainage
- xii. vegetation management proposals including as necessary firming, re-staking, fertiliser application, thinning and replacement of failures within the aftercare period;
- xiii. habitat management proposals within the aftercare period;
- xv. track maintenance within the Site;
- xvi. repair to erosion damage;

Reason: To ensure the establishment of a productive afteruse for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

#### REVIEW OF SITE OPERATIONS

64. The Site shall be subject to a formal annual review of operations throughout the period of working, restoration and aftercare hereby approved. The annual review shall cover issues including:
- i. noise and dust mitigation;
  - ii. extraction and processing;
  - iii. progressive restoration;
  - iv. aftercare, including to agriculture and nature conservation;
  - v. a review of any complaints received and action taken.

Reason: To provide a suitable mechanism for the ongoing review of Site operations.

#### ON SITE RETENTION OF APPROVED DOCUMENTS AND PLANS

65. A copy of all documents and plans comprising the permitted scheme as referred to in Condition 3 above shall be held at the Site for inspection and reference for the duration of the permitted development.

Reason: To ensure the availability of the details of the permitted development to on-site personnel.



## Development Management Report

Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 20/05371/FUL	<b>Parish:</b>	Condover
<b>Proposal:</b> Development of a satellite stocking yard to serve operations from Gonsal Quarry		
<b>Site Address:</b> Norton Farm Condover Shrewsbury Shropshire SY5 7AR		
<b>Applicant:</b> Salop Sand And Gravel Supply Co Ltd		
<b>Case Officer:</b> Graham French	<b>email</b> : <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>	



**Plan 1 - Location**

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

**REPORT**

**1.0 THE PROPOSAL**

1.1 The Planning Application is for a stocking yard at Norton Farm to serve operations at Gonsal Quarry which lies approximately 1.6km to the south of Condover village. The proposal is linked to an application to extend Gonsal Quarry (ref: 20/01373/MAW) which forms a separate item on this agenda. This follows a site meeting involving the applicant, agent, transport consultant and highway and planning officers reviewing potential highway improvements and constraints within Condover.

1.2 The amount of mineral in the extension application is 906,000 tonnes (6 years of reserves at 150,000 tonnes per annum). However, 250,000 tonnes of this within the existing quarry plant area has since been worked under an existing planning consent. Hence the lifespan of working has reduced to 4½ years. The proposed depot would be temporary and coincident with the period of mineral working at Gonsal Quarry.

1.3 Planning application ref: 20/01373/MAW proposes that the material would be extracted, processed and distributed via the established access route through Condover to / from the A49.

1.4 A transport assessment submitted for the Gonsal quarry extension concludes that the permission should not be refused on highway capacity grounds. This conclusion is supported by the Highway Authority. However, Condover Parish Council and some local residents have objected to the proposal given concerns about continued routing of quarry vehicles through Condover. The applicant has put forward the current proposals as a way of addressing these local concerns.

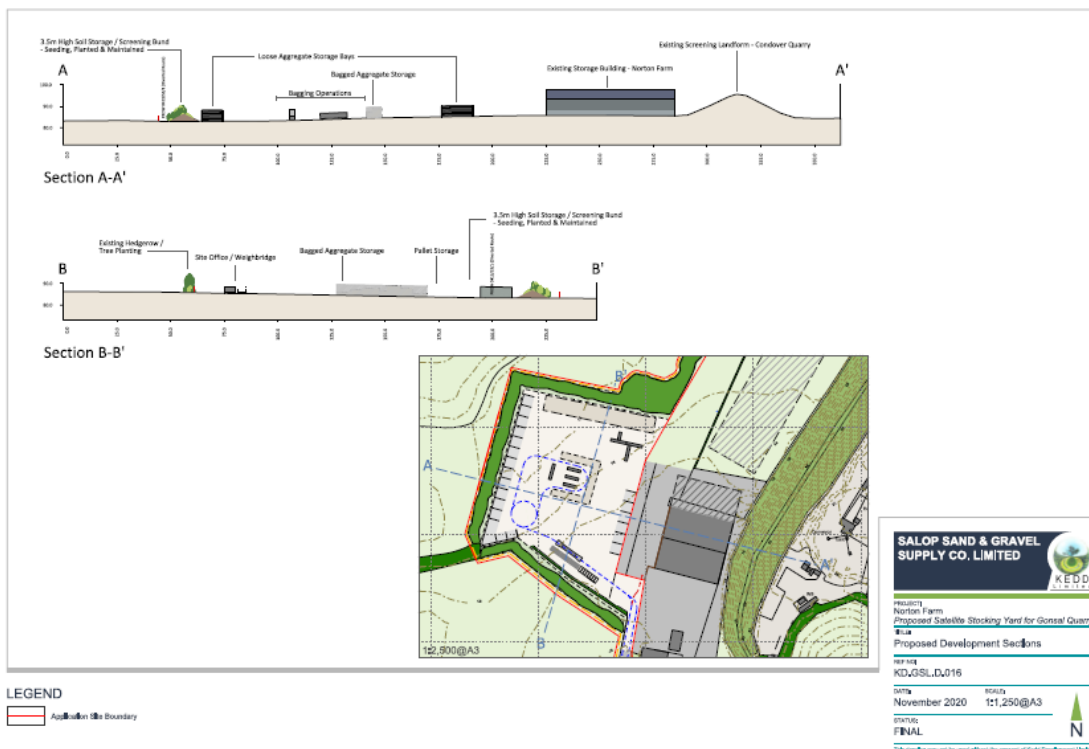


**Plan 2 – Layout Plan**

1.6 Average daily HGV activity would vary between 20 loads / 40 movements based on a 30 tonne payload and 30 loads / 60 rigid movements based on a 20 tonne payload. The 20 tonne rigid chassis vehicles have a smaller turning circle / footprint so can be accommodated more optimally within the existing carriageway through Condover.



- 1.7 The proposed development comprises the storage of bulk aggregates, bulk bagging and midi bagging of aggregates, together with weighbridge, ancillary office, welfare facilities and car parking. This would be supplemented (including for blending purposes) with other bulk products also required by the customers purchasing the sand and gravel (MOT, Dust, Decorative Aggregate, Bark, Salt). This will negate the need for these materials travelling through Condover village into Gonsal Quarry. The existing access onto Station Road would be upgraded to facilitate improved turning towards / from the direction of Condover.
- 1.8 Bagging operations would comprise:
- i. 1No. 12.5m long bulk bagging trailer containing 2no. hoppers (~ 5m in height);
  - ii. 2No. 12.5m long midi bagging trailers together with 15m feed hopper and conveyor (5m in height);
  - iii. Aggregate storage bays;
  - iv. Bagged aggregate storage; and
  - v. Pallet storage.
- 1.9 A 3.5m screening bund would be established along the north and eastern boundaries of the site and tree and shrub planting would be undertaken around the site, except on the eastern margin adjoining the existing farm buildings. This planting would be managed and maintained under an aftercare provision.



**Plan 4 – Cross sections**

- 1.10 As part of the development, it is proposed to divert public footpath 0413/53/1 which runs adjacent to the eastern boundary of the site. It is proposed to create a new line for the path to the west of the access road to minimise disruption from traffic and divert the route around the southern, eastern and northern perimeter of the proposed

development to re-join its legal route to the north of the site. Following the completion of operations, it is proposed to restore the land back to its current agricultural use.

- 1.11 The quarry would operate 2 smaller rigid chassis lorries on the route through Condover in order to supply the proposed depot. This would remove larger articulated quarry vehicles from the route and would even out flows, thereby avoiding periods of more intensive quarry traffic through the village. It would also allow school drop off and pick up times to be avoided. Customers would then collect materials from the depot rather than the quarry.
- 1.12 The depot would operate to the same working hours as the quarry. Namely, 0730 to 1700 Monday to Friday and 0730 to 1630 on Saturdays. No operations are proposed for Sundays or Bank / Public Holidays.
- 1.13 The proposed landscape planting would be retained as a biodiversity benefit and to provide improved screening to the existing farm buildings following cessation of the proposed depot use.

## 2.0 SITE LOCATION / DESCRIPTION

- 2.1 Norton Farm is located approximately 5 miles to the south of Shrewsbury and to the north of the village of Condover. It is accessed via a dedicated track which terminates at the farm, turning from a C road to Condover off the A49. The farm comprises a number of existing buildings including purpose built cattle sheds, a grain store, a range of traditional brick buildings with slate roofing, a stockyard and the farmhouse itself. The proposed development would be situated immediately west of two existing agricultural barns (plan 1).
- 2.2 Land to the north, west and south is in agricultural use. The boundary of Condover Quarry lies on the other side of the agricultural barns to the east, beyond a high bund. A southern extension to Condover Quarry was approved subject to a legal agreement on 28 July 2020 (ref: 19/01261/MAW). Other than the farmhouse, the nearest residential property is approximately 380 metres to the south. A public footpath (Route Code: 0413/53/1) runs adjacent to the eastern boundary of the site and it is proposed to temporarily divert this route around the west side of the proposed depot.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposals have attracted objection from Condover Parish Council and have been referred to committee by Councillor Dan Morris.

## 4.0 COMMUNITY REPRESENTATIONS

### Consultee Comments

- 4.1 Condover Parish Council –Objection on the following grounds:
- i. The application proposed a three-fold increase in the annual level of mineral extraction, from 50,000 tonnes pa to 150,000 tonnes pa. Were quarry lorry sizes to remain the same as they are now, this would lead to a corresponding three-fold increase in heavy

traffic passing through Condover village. The use of smaller lorries would clearly lead to an even greater increase in heavy traffic through the village. The Parish Council was unable to understand how this proposal could be considered to mitigate the current damage to roads and buildings, and risks to pedestrians and other road users caused by lorries from Gonsal Quarry.

- ii. The planning application stated there would be two quarry lorries per hour passing through the village, with a 30 minute break at the start and end of the school day. The Parish Council thought this calculation to be incorrect. Based on 30 tonne lorries carrying 150,000pa, 40 lorry movements per day would be required. Using smaller 20 tonne lorries, 60 lorry movements per day would be required, far in excess of the figures used in the planning application.
  - iii. Much of Condover village affected by Gonsal Quarry lorries is a Conservation Area. The planning application proposed to significantly alter the historic character of the junction with Church Road in front of the Village Hall, by removing the grassed triangle and old fingerpost, installing an urban-style mini-roundabout in its place. Changing the nature of the village in this way would seem to override many other important planning and conservation considerations which aim to protect Shropshire's rural heritage.
  - iv. The proposed satellite stocking yard at Norton Farm would be created on greenfield agricultural land, outside the village development boundary and in the context of a working farm.
  - v. 'Schedule MD5b: Phase 2 Site Allocations' of Shropshire Council SAMDev, saved into the Local Plan Review, explicitly stated that extension of Gonsal Quarry would be subject to conditions, including "1. the creation of a new access to the A49 which would deliver significant local transport benefits over current access arrangements; and 2. further assessment and appropriate mitigation measures to address potential impacts on residential amenity for properties." These conditions recognised the significant impact for residents of Condover village, and for the fabric of the village itself, of heavy traffic from Gonsal Quarry passing through the village. The proposal to create a satellite stocking yard at Norton Farm did not mitigate these very real concerns (see 2 above).
  - vi. The Parish Council considered the proposal to use small lorries worthy of further exploration with regard to securing an alternative route to major trunk roads, avoiding Condover village altogether. Although this had been requested, the Parish Council had not yet received details of the assessment and evaluation of alternative sites for a satellite stocking yard. A route through to the Condover Industrial Estate may be feasible and may enable construction of a stocking yard on existing brownfield land.
- 4.2. SC Rights Of Way - No comments received.
- 4.3. Ramblers Association - No comments received.
- 4.4. SC Highways DC – No objection. The following comments are made:
- i. The application is supported by a Planning Statement which links the use of Norton Farm as a satellite quarry material storage area to support the extraction proposals set

out in application 20/05371/FUL. The proposal however acknowledges that some alterations need to be carried out at the existing access road junction onto the Class III county road although the precise details have not been shown. It is considered that these access improvements should be implemented as soon as possible including the setting out of the stockpiling facility in accordance with the approved plan.

- ii. The highway authority raises no objection to the proposals subject to the access improvements being carried out in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
- iii. The proposal at Gonsal Quarry form a combination of 2 separate planning applications at Gonsal Quarry (Ref 20/03173/MAW) and Norton Farm (Ref 20/05371/FUL), but that are intrinsically linked on the basis that Norton Quarry is to be used as a satellite storage area to stockpile the quarried material from Gonsal, which would be transported to Norton Farm, travelling through Condover village, via the applicant company's own vehicles. It is indicated that there would be a maximum of 2 hgv's operating in this manner. It should be noted that the substantive mineral extraction application can be dealt with in its own right, but that the stock piling at Norton Farm provides a material benefit to mitigate and control the impact of hgv's travelling through Condover.
- iv. The highway authority acknowledge that applicant company Salop Sand & Gravel have been operating out of Gonsal Quarry since the 1950's under a series of planning consents, with hgv movements connected with the quarry operations restricted to travelling from the site through Condover village and exiting out onto the A49 south at its junction south of Bayston Hill. There is therefore a long history of the quarry activities at Gonsal and the routing of hgv quarry traffic through Condover. Gonsal Quarry is identified in the SAMDev and is an important mineral resource within Shropshire, although more latterly the aim has been to try and identify an alternative traffic route to the site avoiding Condover. Whilst aware that that alternative access options have been considered and as part of this application, Condover remains the most economic and suitable hgv route having regard to the current scale of extraction as part of this submission and the anticipated timescale to win the material.

The current proposal seeks consent to extract 930,000 tonnes over a 6.5 year period, equating to 150,000 tonnes per annum.

- v. It is acknowledged at the outset that there is significant local opposition and of the Parish Council to this application having regard to the continuation of quarry hgv movements through Condover village and the highway safety considerations. In this regard the highway authority must have regard to para 109 of the NPPF, which sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The word 'severe' is therefore interpreted as a high threshold to breach in considering if a highway objection on highway capacity and/or safety grounds is both warranted and sustainable to potential appeal.
- 4.5 SUDS – No objection subject to a surface and foul water drainage condition. The proposed surface water drainage in the Flood Risk Assessment is acceptable in

principle. The Environment Agency has updated the guidance on Climate Change and 25% should be used for commercial development in the Severn catchment. The final drainage details, plan and calculations should be submitted for approval.

4.6 SC Ecology – No objection subject to the following comments. Conditions and informative notes are recommended.

- i. Habitats and biodiversity: The site appears to comprise arable farmland of limited value for wildlife and the landscape plans show considerable biodiversity gains via the planting proposals bordering the application site which is supported by the SC Ecology team.
- ii. Badgers: Although the site is dominated by arable farmland which is generally considered to be poor quality sett building and foraging habitat, there are records for Badger within 1km of the site and it is conceivable that the local Badger population may use the site on an occasional or transitory basis. Nevertheless, there is an abundance of similar and higher quality habitat in the wider area and the site is unlikely to be of importance for the local Badger population. A pre-commencement survey should be conditioned to ensure the protection of Badgers.
- iii. Great Crested Newts: There are records of Great Crested Newts within 2km of the site however site is dominated by arable farmland that provides poor quality terrestrial habitat. There is one waterbody, namely the quarry settling pond within 250m of the site, which is located approximately 220m to the east of the site and separated from the site via the interlying development associated with Norton Farm. It would be prudent to assume that Great Crested Newts are present in this waterbody, however studies suggest that the core habitat for Great Crested Newts is within 50m from a breeding pond which in this case is woodland and scrub which is of high-quality terrestrial habitat for Great Crested Newts (Cresswell and Whitworth, 2004). It is therefore unlikely that Great Crested Newts will be using the poor-quality arable farmland within the site during terrestrial phases.

4.12 Councillor Dan Morris (Condover) has been informed of the application and has referred the application to committee.

#### Public Comments

4.13 The application has been advertised in the press and by site notice and the nearest properties have been individually notified. The application has attracted objections from 23 individuals. The concerns of objectors can be summarised as follows:

- i. No traffic benefit: There is nothing in this application to suggest that it will alleviate quarry traffic passing through Condover. The level of minerals being extracted from Gonsal is the same so there will be no reduction in passages of lorries. The volume of HGV traffic through the local community is intolerable. I understand the traffic figures used to support the satellite sticking yard are disputed. Using a greater number of smaller vehicles could perhaps double the trips through the village one way. However this is being proposed a shuttle service with round trips - could we be looking at 4 times as many journeys through our tight lanes? It is unclear as to how a mini roundabout opposite the school provides any mitigation

against the vibrations, noise, dust and the fact that pedestrians routinely have to seek refuge in the form of diving into a wall or hedge to avoid the quarry lorries.

- ii. Highway safety concern: Increased HGV traffic at the entrance to Norton Farm/quarry will cause a considerable issue on this road, particularly as it lies very close to a blind bend. There is currently an application to extend Norton Quarry. Should both these projects be granted, the number of large vehicles entering and exiting at this junction will be ridiculous onto such a small highway and in such a dangerous position. The traffic survey was not representative. The idea that 20 or 30 tonne rigid vehicles will cause much less risk to people and property is not true. The fact the traffic survey revealed traffic speeds were below the 30mph limit only shows the roads are such that anyone going faster would actually be driving dangerously. The proposed "tweaks" to road layout would not help. The route through the village contains tight bends. It is single track in places and the pavements are narrow in places. The route passes a primary school, and is used by children walking to and from school. The effect of moving this bulk freight through the village will be same whether it is carried by purchasers' vehicles or a shuttle service of HGVs. This would seem another plan which would increase the lorry traffic through Condover - a Heritage site. Their maths of the amount of lorries seems to be way out, and there would be many more coming through the village. Since moving to the village seven years ago, I have seen a continued increase in heavy goods traffic through the village centre. The roads in and around the village are now in a very poor state of repair, with no action being taken to resolve this issue. Walking through the village is hazardous at times due to the attitude of many of the vehicle drivers, who seem quite willing to mount the pavements in order to pass other vehicles. I have three young children who are unable and unwilling to play anywhere in the street in this village because of the danger and intimidation caused by the heavy vehicles coming through from the quarry. Surely this alone, the right of children to feel comfortable in their own village, should be a primary consideration in this matter. I might also add that the road from Condover to the Quarry is constantly muddy and covered with stones and rocks and the owner seems to have no desire or is not compelled to rectify this on a regular basis. This is an incredible opportunity for Shropshire Council to focus on improved heavy goods traffic management around Condover, in a positive way that supports businesses, rather than putting artificial limits on their activity to mitigate the inconvenience to residents and other road users.
- iii. Output control concern. I am astounded that the applicant has breached their extraction planning limits and is now using the excess volumes and resulting huge increases in traffic to act as a precedent to justify a continuation of the problem. Is the excess extraction and flagrant breach in planning taken into consideration when granting future permissions around volume? Can we be confident monitoring and enforcement of planning constraints will be done in future? What is to stop 'scope creep' if the quarry gradually pushed the boundaries and limits again. We now know that the limit in the extant planning permission has consistently been exceeded by a factor of three - 150,000tonnes/annum instead of 50,000tonnes/annum. This shows complete disregard for the effect on Condover and attempting to regularise the breach by a new application must not be allowed.

- iii. Planning policy non-compliance. Shropshire Council need to operate by their own quarry guidance plan (SAMDev Plan) and arrange an alternative route directly onto the A49 for the quarry traffic should they wish to grant permission. If the quarry owners will not pay for the new access road to the A49 yet this is considered national critical infrastructure, why are the council/ relevant government agencies not looking at ways of funding this? It is obvious that further extension will be applied for in the future. A new access will no doubt be in use for much longer than 5 years. The owner of the Quarry, Mr Parton, sent a signed letter to Planning on 07/10/14 which confirmed that construction of the new road would not be a problem for any future expansion. We have had feedback from Planning where at first it was said that the new road did not apply to a Southern Extension. When that was proved by evidence to be incorrect, we were then told that Planning would over-ride SAMDev because it was a quarry and there was a need. We have not seen anything which proves that need cannot be met elsewhere or indeed justification that a threefold increase is needed. We have been given feedback about the construction of the new road. The last we heard was that it would cost £2 million. Those figures have never been presented and detailed. We also had an earlier verbal version where Network Rail objected to a new bridge, even though the proposed new road on SAMDev goes over an existing non limited weight bridge on Grange Lane.
- iv. Visual amenity: Converting the designated area into a lorry yard with piles of minerals and the necessary infrastructure to co-ordinate this, is going to create an eyesore on the approach to Condover. The bund proposed will not even nearly be big enough to detract from operations. Lyth Hill is a very popular walking spot, from there, the existing enormous farm buildings are already a blight on the landscape, the addition of a large mineral storage yard is surely inconceivable.
- v. Traffic noise, vibration and heritage: Concerns about traffic noise in the village. due to the weight of the contents being carried as well as the weight of the lorries themselves, they create such noise and even vibrations which I can feel through the house. Vibrations from this traffic can be felt in my house, and are damaging the Grade 2 Listed Stables & Carriage House on our property (an extensive programme of repairs for this building is now required). I also object to the proposal to reduce the size of the grassed triangle near the church on the grounds of materially changing the aesthetics of the Conservation area and again, for a single business commercial gain,

## 5.0 THE MAIN ISSUES

- i. Policy context;
- ii. Highway context and justification for the proposals;
- iii. Other environmental implications of the proposals, including with respect to ecology noise, dust, working hours, hydrology and agriculture;
- iv. Reversibility of the proposals.

## 6.0 OFFICER APPRAISAL

### Policy context

- 6.1 The proposed site is located on agricultural land in the open countryside beyond the settlement boundary of Condover but immediately adjoining the existing buildings at Norton Farm Condover. Core Strategy Policy CS5 seeks to avoid expansion of non-agricultural and particularly open market residential development in the open countryside in line with national policy to protect the countryside. Exceptions to this policy can relate to appropriately designed agricultural, leisure and tourism uses.
- 6.2 The current proposals for a depot linked to a quarry use do not fall within one of the exception categories which can normally be permissible in the open countryside. However, here are some extenuating circumstances which lend support to the proposals:
- The proposals are temporary (<5 years) and reversible in nature and make provision for the land to be restored to its current agricultural condition;
  - The proposals would facilitate an improvement to the way in which HGV traffic from Gonsal Quarry is managed as it passes through Condover village and onward to the A49. The application responds to concerns raised about quarry traffic by Condover Parish Council and is supported by the Highway Authority;
  - The proposals incorporate substantial landscaping proposals which remain as an ecological betterment upon cessation of the depot use;
  - The landscaping proposals would facilitate screening of a new large agricultural building to the immediate east which currently has no screening as seen from the west;
  - The proposals are directly related to an application to work a proposed allocated mineral site and form part of the highway mitigation strategy for the allocated site. As such they derive support from NPPF paragraph 205 which requires great weight to be given to the benefits of mineral extraction including the economic benefits;
  - The information submitted in support of the application indicates that there would be no unacceptable impacts on land use or environmental impacts once proposed mitigation measures and recommended planning conditions are applied.
  - The site is physically separated from the nearest privately owned residential properties;
  - The proposed structures and uses are of limited size and are capable of being screened within the development;
  - The proposals would support the stable profitability of the existing agricultural use at Norton Farm in a similar way to an agricultural diversification.
- 6.3 When these factors are taken together it is considered that the proposed temporary and reversible depot use would not raise any fundamental conflict with policy CS5 and related development plan policies and guidance.

#### Highway context and justification for the proposals

- 6.4 Salop Sand & Gravel Supply Co. Ltd operates Gonsal Quarry, which lies approximately 1.6km to the south-southwest of Condover village in Shropshire. Gonsal Quarry has provided sand and gravel to the local construction industry since the 1950s. The quarry is currently worked under planning permission reference 13/00336/EIA (granted 24/04/18). The existing planning permission includes a legal agreement with a routing restriction requiring all HGV traffic travelling to / from the site (unless making local deliveries) to pass through Condover village to the A49.



- 6.5 A planning application is currently under consideration for a southern extension to Gonsal Quarry (ref: 20/01373/MAW). A traffic assessment accompanying the quarry extension application has not identified any grounds for refusal in terms of highway capacity and this conclusion has been accepted by Highway officers.
- 6.6 However, the applicant has noted the concerns of residents regarding quarry HGVs running through the village and has put forward the current proposals as a way of providing some mitigation for these concerns. Two smaller rigid chassis HGVs would be employed to transport extracted material to Norton Farm. This would then become the main distribution point for existing customers, some of whom currently run larger articulated HGVs through the village.
- 6.7 The applicant advises that the proposals would deliver the following benefits in terms of quarry vehicle control:
- i. Traffic movements would be equalised out, thereby avoiding intermittently intensive quarry traffic movements which can sometimes occur. The quarry application transport assessment advises in this respect that levels can theoretically reach 12 movements per hour at peak times under the current situation where the 3 main customers can all require product at the same time. By contrast the proposed depot use would ensure that individual quarry HGV movements took place no more frequently than once every 30 minutes.
  - ii. Larger articulated vehicles used by some of the quarry's customers would no longer need to go through Condover as they would obtain product from the proposed depot at Norton Farm instead.
  - iii. The quarry lorry drivers would have a detailed understanding of the local road network and its limitations / pinch points as they would use the road on a daily basis.
  - iv. The quarry vehicles would be clearly marked as such and would be readily traceable if any problems were encountered, in contrast to customer vehicles. The Parish Council would be provided with vehicle license plate and quarry contact details, thereby securing driver accountability.
  - iv. Controlled despatch of quarry traffic means that quarry HGVs would not meet other quarry HGV's in opposing directions in the village.
  - v. There would be an ability to control despatch of quarry vehicles to avoid peak school dropping off and picking up times. This cannot currently be controlled as there is no ability to control the quarry customer's HGV's.
- 6.8 In addition to this the quarry pays 9p per tonne towards highway maintenance under a legal agreement attached to the existing planning consent which would be extended if the quarry extension is approved. £8000 has been paid with respect to the 2017 calendar year and an invoice for a further £42,000 due for working in the calendar years of 2018, 2019 and 2020 will shortly be sent to the quarry operator. The additional mineral contained within the proposed extension is estimated to yield a further £65,000

based on the 9p per tonne rate. The quarry operator has indicated a willingness to pay this money up front at an early stage rather than over the estimated 4½ years of mineral working. This would yield a total of @£115,000 paid by the quarry company to be used for highway maintenance / improvements. The transport assessment accompanying the minerals application puts forward some suggestions for how this money could fund improvements to the local highway network, including provision of a 20mph speed limit and a traffic island and pedestrian crossing point at the school. There is some local community concern that any improvements funded by the applicant could, together with the depot proposals be used to justify a subsequent continuation of quarry HGV movements through Condover.

- 6.9 The highway officer has expressed a preference for general improvements to the highway through Condover and funding to establish a 20mph speed limit. Ultimately it will be for the Highway Authority to decide how any money should be spent, in consultation with the local community. It should be noted that between 50 and 85% of HGV traffic through the village is not from Gonsal Quarry and these other users do not provide any legal agreement funding for highway maintenance. As such Gonsal Quarry would provide the only non-Highway Authority funding to assist with highway maintenance and mitigation.
- 6.10 Condover Parish Council and some residents have questioned these benefits on the basis that the same amount of mineral is proposed to be exported from the quarry irrespective of whether the depot use proceeds. They advise that the proposal to use of smaller 20 tonne rigid chassis HGV's in place of larger 30 tonne articulated vehicles would imply 50% more HGV traffic than would be the case with articulated HGV's. However, the articulated HGV's have a wider turn radius and so are less suitable for use on the narrow route through Condover village and there is a greater risk of such vehicles meeting head-on in opposing directions. It is therefore considered that the ability of the depot proposals to restrict quarry HGV's to rigid chassis 20 tonne vehicles represents a significant benefit in terms of quarry vehicle control. The points made in 6.4 i-v above are also recognised as benefits relative to the current situation.
- 6.11 A traffic assessment accompanying the quarry extension application finds that daily weekday flows averaged 2585 vehicles at the location of highest traffic flow north of the school where between 122 and 163 HGV's were recorded per weekday. The peak hourly flows varied between 46 and 277 movements. The assessment advises that the overall traffic volumes are low in absolute terms, even at the busiest times. The peak hour flows recorded of 277 movements are comparable with the capacity of a single-track road with passing places (between 50 and 300 movements per hour).
- 6.12 In terms of the Gonsal Quarry traffic, the daily HGV flows through Condover were seen to vary significantly, between 4 loads / 8 movements and 30 loads / 60 movements per day. The peak number of loads leaving the site in any hour during the survey was 6. However, the timescale for loading quarry vehicles could result in a theoretical worst case of 12 movements per hour which equates to 1 HGV movement every 5 minutes. An annual production level of 150,000 tonnes and a 5.5 day working week results in an average of 27.3 loads / 56 HGV movements per day for a 20 tonne payload (reducing by 50% for a 30 tonne payload). The transport assessment advises that quarry vehicle movements account for between 15 and 53% of HGV activity through Condover at the

centre of the village. Hence a significant volume of HGV traffic is not associated with the Quarry.

- 6.13 The transport assessment also finds that there is no significant accident or personal injury record involving HGVs in Condover with only one incident involving an HGV over 7.5 tonnes in a 21 year period and none in the most recent 5 year period. Local residents have queried this conclusion based on the number of near miss and minor incidents which go unreported.
- 6.14 For decades the quarry has exported mineral through Condover at a similar or greater rate to that which is currently proposed. No fundamental changes to highway infrastructure have occurred during this timescale though traffic levels have increased generally and there is now a greater number of larger articulated HGV's on the roads. The transport assessment advises however that there is no accident or personal injury record involving quarry HGVs at Condover. Recorded levels of traffic through the village are also not high when based on national standards, being equivalent to those of a single-track road with passing places. The Highway Authority has not objected to the quarry extension and has advised that it would not be possible to justify refusal on highway capacity grounds. They have also accepted verbally that the proposed depot would provide an appropriate way of reducing the impact of quarry HGV's on the local road network. This is notwithstanding the conclusions of the transport assessment as noted above.
- 6.15 Traffic – output: The Parish Council has objected to continued quarry HGV movements through Condover and advises that the proposal for 150,000 tonnes per annum is a three-fold increase over the current permitted maximum of 50,000 tonnes per annum. The 50,000 tonne limit was however imposed based on the details of the previous application rather than on any highway capacity grounds. These indicated that the current limited working area contained mainly fine building sand which has a lower-volume market. This justified a condition reducing the annual output relative to previous consents. Historically from Gonsal has been permitted to export up to 250,000 tonnes of mineral per annum and has routinely produced between 150 and 200,000 tonnes per year. The currently proposed southern extension at Gonsal contains a more varied mix of sand and gravel typical of previous supply patterns for the quarry and capable of supplying a more volumetric market. Hence, a condition reducing output to 50,000 tonnes per annum would not be justified on mineral supply grounds.
- 6.16 Highways – Alternative Access for Gonsal Quarry: The current application for an aggregate depot at Norton Farm is linked to an application for a southern extension at Gonsal Quarry. The southern extension ant Gonsal and a larger northern extension are allocated by Policy MD5b. However, the development guidelines accompanying the policy indicate that any application should obtain access to the allocated sites by means of a new access road linking to the A49. The applicant has reviewed options for delivery of a new access road and concluded that this is not viable. The applicant has verbally provided detailed evidence in support of this to the officer. The quarry extension application therefore proposes continued access through Condover for the proposed 4½ year duration of mineral working. This would be linked to a mitigation package including formation of the proposed satellite depot at Norton Farm and continuation of highway maintenance funding.

- 6.17 Because the current application does not involve construction of a new access route to the A49 it could be regarded as a ‘technical departure’ from this element of the SAMDev plan although the reference to the new access falls within the ‘development guidelines’ rather than the policy text. The following considerations must be taken into account in assessing the acceptability of not pursuing the new access referred to in the development guidelines:
- i. The highway authority has not objected to the quarry extension proposals on the basis of the proposal to export up to 150,000 tonnes per year from the quarry using the route through Condover;
  - ii. The applicant has put forward mitigation proposals which are designed to mitigate the impact of quarry traffic during the proposed temporary period of future operation.
  - iii. The quarrying proposals are relatively small scale and would secure production for up 4.5 years at the proposed output rate;
  - iv. The quarry has been operating for over 50 years with outputs through Condover which are similar to the levels currently proposed;
  - v. There have been no fundamental changes in the design and circumstances of the local highway though there is a general trend towards increased traffic and larger HGVs;
  - vi. The transport assessment advises that the level of traffic recorded through Condover Village is not high based on national standards and equates to the level which might be expected for a single-track road with passing places;
  - vii. The transport assessment advises that the road has a generally good accident safety record (though local residents refer to unreported and near miss incidents);
- 6.18 The SAMDev development guidance for Gonsal Quarry combines consideration of the current modest extension with the much larger northern extension allocation. The two extensions would be expected to be worked separately given their geographic separation. The applicant has reaffirmed that the northern extension would not be worked unless a new access can be delivered or an alternative traffic mitigation solution can be agreed. The small southern extension would not be capable of supporting the significant costs of delivering the new access referred to in the development guidelines if this was capable of being delivered from a practical perspective. The larger northern allocation at Gonsal may be capable of supporting the cost of the new access if it was subsequently found to be feasible practically, in conflict with current advice from the applicant.
- 6.19 The currently proposed southern extension at Gonsal would be worked separately from the larger northern extension and cannot on its own support the cost of the new access set out in the development guidelines to SAMDev policy MD5b. The applicant is entitled in these circumstances to seek to apply to continue to use the existing quarry access route through Condover in conflict with the development guidelines. The application must be considered on its individual merits having regard to the fact that the Highway Authority has not objected.
- 6.20 Highways – Norton Farm Junction capacity: The proposed development would result in increased traffic movements at the existing shared access to Condover Quarry and Norton Farm, due to the vehicle movements to and from the proposed depot and existing activities using the Norton Farm access. This includes traffic to and from the

proposed depot existing farming activities and operation of the adjacent sand and gravel quarry operated by Hanson. The 150,000 tonnes of sand and gravel supplied by Gonsal Quarry from Norton Farm would equate to between 20 daily loads (40 movements) based on a 30 tonne articulated payload and 30 daily loads (60 movements) based on a 20 tonne rigid chassis payload. Recent weighbridge data from Gonsal Quarry revealed an average of 24 loads / 48 HGV movements per day. The same types of vehicles currently attracted to Gonsal Quarry would divert to Norton Farm in order to avoid travelling through Condover village. Based on the higher level of activity (60 movements per day) the average hourly flow is established to be 6.3 movements per hour or around 5.5 – 6 minutes of quarry HGVs travelling through Condover per hour.

- 6.21 All sales traffic would turn left into the access and approach from and leave in a northerly direction. Beyond the Norton Farm access to the north, these vehicles transporting the sold material would have no detrimental impact when compared with the current situation, as the vehicles are already on the network. The difference would be that they would no longer continue through Condover village in order to access the sand and gravel supplies from Gonsal Quarry. The capacity of the Norton Farm / Condover Quarry access was assessed when determining the recent application for an extension to the quarry. The results confirm that the access would operate well within capacity in the 2023 design year assessed.
- 6.22 Justification – conclusion: The National Planning Policy Framework advises in paragraph 109 that development proposals should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Highway Authority has not objected to the quarry extension or the proposed depot. They have accepted that the proposed depot would assist in mitigating quarry HGV movements associated with the proposed 4½ year quarry extension. The junction at Norton Farm has adequate capacity and there is no HGV accident / injury record in Condover. Traffic levels are equivalent in terms of national standards to a single track carriageway with passing places.
- 6.23 The development guidelines in SAMDev policy MD5b do not prevent the applicant from coming forward with proposals to continue exporting mineral through Condover for a further temporary period. It should also be noted that the depot is linked to an application for an allocated quarrying site. As such it derives some support from both SAMDev policy MD5 (sites for sand and gravel working) and paragraph 205 of the NPPF whereby ‘great weight’ should be given to the benefits of mineral extraction including to the economy. It is concluded that the justification for the proposed depot can be supported in principle. This is provided there would be no unacceptable effects on other land use / environmental impacts.
- 6.24 Noise: The proposed development has the potential to generate noise through:
- noise emanating from the bagging operations – trailer, conveyor and hoppers;
  - the movement of HGVs associated with the import of sand and gravel via road; and
  - movement of vehicles internally around the site.
- 6.25 The site is situated within the context of Norton Farm and apart from Norton farmhouse, the site is not bordered by land uses that are considered to be sensitive to

noise such as other residential property. The following noise mitigation measures are however proposed:

- all on-site plant will be regularly maintained to operate in good working order;
- Engine idling will be avoided whenever possible and engines turned off where practicable. Unnecessary revving of engines will be avoided and reducing speed of vehicle movement will be encouraged;
- All vehicles operating on-site requiring audible reversing alarms will be fitted with white noise systems; and
- Soil bunds of 3.5m in height will be put in place around the northern, southern and western boundaries of the site, whilst an existing bund is already in place to the eastern boundary associated with Condover Quarry.

6.26 To provide added reassurance a condition limiting maximum noise attributable to site operations to 55dB(A)eq at the nearest noise sensitive properties has been recommended in Appendix 1.

6.27 Dust: The NPPF technical guidance that includes specific guidance on the management of dust and air quality from mineral operations. The planning application incorporates a dust mitigation scheme to minimise the generation of airborne dust. Dust suppression measures including the dampening of areas of hardstanding when required will ensure that dust is not generated by on-site vehicle movements. In addition, delivery vehicles will be sheeted when transporting materials and vehicle cleanliness will be maintained at all times.

6.28 Visual Impact: A landscape and visual assessment (LVIA) accompanying the planning application concludes that the size and scale of the site operations and their constituent elements is small. The site is set within a medium scale agricultural landscape which contains individual small-scale developments including farmsteads and barns. The LVIA concludes that the proposal is a small-scale temporary development which will not result in any adverse significant effects on the landscape or visual receptors. The proposed bunding, seeding and planting will ensure that the development is assimilated into its local setting. The planting also offers potential for ecological corridors and native biodiversity. The proposed mitigation measures will also aid in the screening and landscape integration of the existing barns adjacent to the site which currently have no associated landscaping. It is concluded that the proposed temporary development is acceptable on landscape and visual grounds and would leave longer term landscape and biodiversity benefits.

6.29 Agriculture: Paragraph 170b of the NPPF requires that the economic and other benefits of the best and most versatile agricultural land should be taken into account. The site area is 3.48ha comprising mainly arable land which is expected to be of grade 3a quality. However, the proposals are temporary in nature and linked to the lifespan of the proposed quarry extension at Gonsal. Accordingly planning conditions in Appendix 1 limit the maximum use of the site to 5 years and set detailed requirements for soil handling and restoration.

6.30 There would be some loss of agricultural land (less than 0.5ha) in order to provide the landscape planting which would remain after use of the depot ceases. It is considered

that the visual and ecological benefits of this would compensate for any such loss and would deliver an overall environmental benefit. It is concluded that the proposals can be accepted in relation to relevant development plan policies and guidance covering agricultural land including NPPF paragraph 170b and Core Strategy Policy CS17.

- 6.31 Ecology: An ecological report includes a desk top study, a review of previous ecological work and a walk over survey. This finds that the site is an intensively managed arable field with very low/negligible ecological value. Bomere, Shomere and Betton Pools site of Special Scientific Interest (SSSI) is located within 1km to the north east of the site, beyond the existing agricultural barns and Condover Quarry. The report advises that given the scale and nature the proposed development, it is not considered likely to impact on the status of the SSSI.
- 6.32 There is a record of Great Crested Newt (GCN) within 1km of the site with 3 mapped waterbodies within 500m of the site, all of which are located within Condover Quarry. However, there are no areas of suitable terrestrial habitat for Great Crested Newts present within the site boundary. An adjacent hedgerow which is assessed to provide terrestrial habitat for Great Crested Newts is to be retained. Hence the report concludes that the proposed development will have no impact on Great Crested Newts. A hedgerow adjacent to the south east corner of the site may be used by bats for commuting purposes but will not be disturbed. No evidence of badger was found on site during the walkover survey. It is not considered that the proposed development will impact on any other fauna of significant value and/or protected species.
- 6.33 The report recommends a pre - commencement check to ensure no new badger setts have been created before works onsite begin and that no additional lighting is created in close proximity of the adjacent hedgerow. Conditions covering these matters have been included in appendix 1. The Council's ecology section has not objected and has acknowledged the potential for biodiversity gain offered by the landscaping proposals. It is concluded that the proposals can be supported on ecological grounds. Core Strategy Policy CS17, SAMDev Policy MD12.
- 6.34 Hydrology and water resources – The site is located within Flood Zone 1 representing the lowest risk of fluvial flooding and is not in an area with critical drainage problems as notified by the Environment Agency. Drainage proposals for the site are designed to ensure the site can be operated safely without increasing flood risk. A Flood Risk Assessment has been undertaken. The Council's drainage service has not objected.
- 6.35 Measures will be employed on site to minimise the risk of pollution including:
- Inspection of vehicles entering and leaving the site on a daily basis – including checks for leaks on hydraulic pipes, fuel pipes etc;
  - Fuels, hydraulic oils and other hydrocarbons to only be kept in the prescribed area within the site. Such fluids to be kept on an area of hardstanding and the fuel store to kept within a bunded area. The bund must be of sufficient volume to contain 110% of the fuel store volume;
  - Inspection of the structural integrity of the fuel store and bunding on a regular basis; and
  - Emergency, spillage clean up procedures (and relevant equipment) in place within the site to contain and recover spillages should they occur.

It is concluded that the proposals can be accepted in relation to drainage and pollution control. Core Strategy Policy CS18.

## 7. CONCLUSION

7.1 The proposed depot would serve as a storage / distribution facility for Gonsal Quarry. It would accommodate sales to customers including collections / deliveries in the larger articulated vehicles. As a result, such vehicles would no longer pass through Condover in order to access the sand reserves.

7.2 This arrangement also offers the opportunity to equalise flows of quarry traffic, avoiding intermittently intensive periods and to avoid HGVs associated with Gonsal Quarry from passing through the village during school pick-up and drop-off times. Removing the articulated HGV movements through Condover associated with Gonsal Quarry and allowing improved control of quarry vehicle movements would provide a degree of betterment for the village.

7.3 The proposals are linked to an application for an allocated quarrying site and as such are supported by NPPF paragraph 205. environmental impacts of the proposal have been considered and no unacceptable impacts have been identified. Approval is therefore recommended subject to the conditions set out in Appendix 1.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

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

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

8.2 Human Rights: Article 8 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: 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: 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

#### 9.1 The Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt) – allowing for development on appropriate sites within the countryside that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: required community uses and infrastructure which cannot be accommodated within settlements;
- Policy CS6 (Sustainable Design and Development Principles) – requiring designs of a high quality to respect and enhance local distinctiveness, mitigating and adapting to climate change
- Policy CS8 (Facilities, Services and Infrastructure Provision) – seeking the development of sustainable places by preserving and improving facilities and services; facilitating the timely provision of additional facilities, services and infrastructure to meet identified needs in locations that are appropriate and accessible; positively encouraging infrastructure where this has no significant adverse impact on recognised environmental assets
- Policy CS9 (Infrastructure Contribution);
- Policy CS16 (Tourism, Culture and Leisure);
- Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire's environmental assets;
- Policy CS18 (Sustainable Water Management) – to reduce flood risk; to avoid an adverse impact on water quality and quantity
- Policy CS20 (Strategic planning for Minerals) Note: Gonsal Quarry associated with the current application is within an area identified as a broad location for future mineral working in the plan accompanying policy CS20.

#### 9.2 SAMDev Plan:

- MD2 – Sustainable Design

- MD4 - Managing Employment Development
- MD5 - Sites for Sand and Gravel Working
- MD7b– General Management of Development in the Countryside
- MD12: The Natural Environment
- MD13: The Historic Environment
- MD15 - Landfill and Landraising Sites
- MD16 - Mineral Safeguarding
- MD17: Managing the Development and Operation of Mineral Sites

10. RELEVANT PLANNING HISTORY:

- 11/01608/FUL Erection of an agricultural grain store GRANT 11th July 2011
- 12/04679/DIS Discharge of Condition 3 (Materials) attached to planning ref
- 11/01608/FUL. Erection of an agricultural grain store DISAPP 8th January 2013
- 16/05189/FUL Erection of an agricultural grain store GRANT 7th March 2017
- 19/04953/FUL Installation of a ground source heat pump array and erection of drying shed NPW 13th January 2020
- 20/00349/FUL Installation of a ground source heat pump array and erection of drying shed WDN 1st March 2021
- 20/02110/CPE Application for a Lawful Development Certificate for existing agricultural grain store not built in compliance with condition no.2 (11/01608/FUL) LA 9th December 2020
- 20/02112/FUL Application under Section 73A of the Town and Country Planning Act 1990 for erection of an agricultural grain store (retrospective) GRANT 29th January 2021
- 20/05371/FUL Development of a satellite stocking yard to serve operations from Gonsal Quarry PDE
- 21/01117/FUL The application is for the installation of a ground source heat pump array, the erection of a drying shed and the construction of a landscaped screening bund on land at Norton Farm. REC
- SA/85/0038 Erection of an agricultural building to be used for housing cattle. PERCON 21st February 1985

10.2 View application:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QLR8ZITDJK700>

11. ADDITIONAL INFORMATION

List of Background Papers: Planning application reference 20/05317/FUL and the related plans and documents. Also the related planning application for a southern extension to Gonsal Quarry, reference 20/03173/MAW

Cabinet Member (Portfolio Holder) Cllr Gwilym Butler

Local Member Cllr. Dan Moriss

Appendices: APPENDIX 1 - Legal obligation heads of terms and recommended conditions

## APPENDIX 1

### Conditions

#### COMMENCEMENT OF DEVELOPMENT

1. The development to which this permission relates must be begun not later than 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.

#### DEFINITION OF THE SITE AND PERMISSION

2. This permission shall relate to the land edged red on Drawing No. KD.GSL.D.021 hereinafter referred to as "the Site".

Reason: To define the Permission.

#### DEFINITION OF THE PERMISSION

3. The development hereby permitted shall be carried out strictly in accordance with the approved documents and plans.

Reason: To define the permission.

#### TIME LIMITS

- 4a. The use hereby approved shall cease within 5 years of the Commencement Date as defined in Condition 1 above.
- b. The intended date when importation saleable products to the site commences shall be notified in writing to the Local Planning Authority.

Reason: To define the completion date for the use hereby approved and the date for commencement of operations at the depot.

5. The Site shall be fully restored within 12 months of the completion of depot operations as defined in Condition 4a above.

Reason: To secure restoration of the Site within an acceptable timescale.

#### GPDO RIGHTS

6. Notwithstanding the provisions of Part 17 of the Second Schedule of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order, the erection of any additional plant or machinery or structures or erections of the nature of plant or machinery shall not take place within the Site without the

prior written approval of the Local Planning Authority. The only exception to this shall be for structures not exceeding 5 metres in height.

Reason: To enable the control of any further development within the Site.

#### PLANTING AND SCREENING OPERATIONS AND OTHER PRELIMINARY OR ASSOCIATED WORKS

- 7a. All trees, hedgerows and bushes within the Site but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works by fencing or other means.
- b. A scheme detailing measures to ensure continued protection of the existing mature hedgerows and woodland within the margins of the Site shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this permission.

Reason: To preserve and protect existing vegetation within the Site.

#### HOURS OF WORKING AND GENERAL CONTROL OVER OPERATIONS

8. No development shall commence until a scheme detailing the proposed access improvements has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details prior to the bringing into use of the depot hereby approved.

Reason: To ensure that the permitted development is served by an appropriate access in the interests of highway safety.

- 9a. Unless otherwise approved in writing by the Local Planning Authority, or except in the case of emergency, records of which shall be retained for inspection by the Local Planning Authority, the quarrying and associated processing operations and uses hereby permitted shall not take place outside the following hours:-

Mondays to Fridays 07.30 - 17.00 hours

Saturdays 07.30 - 16.30 hours (Maintenance Work only)

No operations shall take place on Sundays, Bank Holidays or other National Holidays.

10. Measures shall be implemented to avoid the possibility of vehicles waiting outside the site prior to the permitted opening hours as specified in condition 10a above.

Reason: In the interests of highway safety.

- 11a. The total amount of saleable products delivered to the depot in any calendar year shall not exceed 160,000 tonnes in total unless a scheme detailing any proposed increase above this level has first been submitted to and approved in writing by the Local Planning Authority.

- b. Written records of the tonnage of saleable products imported to the depot each year shall

be maintained and shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: In accordance with the approved details and to ensure that the importation of saleable materials is controlled at a level which is designed to protect the amenities of the local area.

12. Any minerals imported to the Site shall be derived only from Gonsal Quarry and shall only use the access route between the Quarry and Norton Farm via Station Road Condover.

Reason: In the interests of highway safety.

- 13a. No bulk fill or waste materials shall be imported to the Site under the terms of this permission.

- b. No soils or soil making materials shall be brought on to the Site unless the prior written approval of the Local Planning Authority has been obtained.

Reason: To ensure that satisfactory control is maintained over the operations at the Site.

#### SITE DRAINAGE, POLLUTION CONTROL AND HYDROGEOLOGY

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

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

*Informative Note: If non permeable surfacing is used on the new access, hardstanding and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.*

#### NOISE, DUST AND LIGHTING

15. Noise attributable to the development hereby approved shall not exceed a level of 55dB(A) LAeq 1h (free field) at the nearest privately owned residential properties surrounding the site.

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

- 16a. All vehicles employing reversing alarms within the site shall be fitted with white noise reversing alarms.

- b. All plant and machinery used within the Site shall incorporate silencers fitted in accordance with the manufacturers' specifications and those silencers shall be maintained in full working order.

Reason: To protect any noise sensitive properties from noise disturbances.

17. Site operations shall be controlled so that there shall be no visible emission of dust from the Site when viewed at the Site boundaries. In particular internal surfaces and stockpiles shall be sprayed with water as necessary to minimise dust emission.

Reason: To protect the amenities of the area from any dust generated by operations within the Site.

18. A water bowser of a type and size appropriate to control dust generated from the haul roads and other working areas within the Site shall be employed on the Site when weather conditions require the suppression of dust.

Reason: To ensure suitable dust suppression measures are employed on the Site particularly during dry and/or windy weather conditions.

19. No fixed lighting shall be installed at the Site unless the details of such lighting have first been submitted to and approved in writing by the Local Planning Authority. All fixed lighting employed at the Site shall be designed so as to minimize the potential for light spillage and associated visual impact.

Reason: To protect the visual amenities of the area and to reduce the potential for disturbance to local wildlife.

#### INTERNAL SITE ROADS AND WHEEL CLEANING MEASURES

20. The internal access road serving the site shall be regularly maintained and swept to provide a clean and even running surface, free from potholes.

Reason: To protect the amenities of the area to minimise the risk of pollution and to ensure a satisfactory access to the Site over the operational period.

#### CONTROLS OVER METHOD OF OPERATIONS

21. Unless otherwise first approved in writing by the Local Planning Authority mineral and other permitted saleable materials referred to in the application supporting statement shall not be stockpiled other than in the approved stocking areas shown on the approved layout plan.

- b. At no time throughout the duration of the operations hereby permitted shall the height of stockpiles exceed 5 metres.

Reason: In the interests of general and visual amenity.

#### SOIL STRIPPING, MOVEMENT AND STORAGE

22. No movement of soil shall take place except when the full depth of soil to be stripped or otherwise transported is in a suitable dry soil moisture condition. Conditions shall be sufficiently dry for the topsoil to be stripped and separated from the subsoil without difficulty. Soils should be drier than field capacity in the case of coarse textured soils and

drier than lower plastic limit for fine textured soils.

Reason: To ensure the satisfactory handling of soil resources within the Extension Site.

23. Before any part of the Site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or is built upon or used for the stacking of subsoil, soil making material or overburden, or for the construction of a road, all available topsoil shall be stripped from that part using dump trucks, front end loading shovels and/or conveyors.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

24. All soil types within the Site as approved by the Local Planning Authority shall be stripped and stored separately and within those soil types, the top and subsoils shall be stripped and stored separately. Any overlap of soil types in a storage mound shall be kept to the minimum necessary for the effective formation of that mound and the interface shall be suitably defined on site and on a record plan provided to the Local Planning Authority so that soil types can be easily located at mound removal stage.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

25. Subsoils shall be stripped from the extraction area to a minimum 75cm in depth and shall be stored for the subsequent restoration of this part of the Site.

Reason: To ensure that sufficient subsoils are reserved for future restoration uses.

26. Mounds of topsoil, subsoil and soil making materials shall be constructed with only the minimum of compaction necessary to ensure stability. They shall be graded and seeded with a suitable grass seeds mixture, and the sward shall be managed throughout the period of storage including the removal of any weeds at an early stage of growth.

Reason: To ensure the satisfactory preservation of soils for restoration of the Site.

- 27a. Stripping, movement, storage and subsequent replacement of soils shall only be undertaken using a back-actor, front end loading shovels, dump trucks and/or conveyors.

Reason: To minimise possible damage to soils for use in future restoration.

- b. Stocking of soils in mounds shall be to a maximum height of 3.5 metres and such mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability.
- c. Run-off from soil storage areas shall be contained within the Site or intercepted via peripheral drains and settled out through on-site treatment facilities prior to any discharge from the Site.

Reason: To ensure the satisfactory conservation of soils, the proper construction of soil storage areas and to prevent the pollution of the Mor Brook or other surface waters..

## ECOLOGY, LANDSCAPING AND RESTORATION

28. Within one month of the commencement date a landscaping plan illustrating biodiversity gain shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- i. Planting plans, creation of wildlife habitats and features and ecological enhancements [e.g. hibernaculum, integrated bat and bird boxes/features, amphibian-friendly gully pots and/or bug houses];
  - ii. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
  - iii. Access layout and visibility splay in line with Highways requirements in order to demonstrate their compatibility with the retention of existing trees and hedges, or measures to replant or translocate hedges behind the visibility splay if required;
  - iv. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
  - v. Native species used are to be of local provenance (Shropshire or surrounding counties);
  - vi. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
  - vii. Implementation timetables.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

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

29. Prior to first use of the site, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:
- i. A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - ii. A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for Swifts (swift bricks or boxes), Sparrows (32mm hole, terrace design), Starlings (42mm hole, starling specific) and/or small birds (32mm hole, standard design)) shall be erected on the site prior to first use of the development.

The boxes shall be sited at in suitable locations and at suitable heights from the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall therefore be maintained for the lifetime of the development.

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

30. Prior to the commencement of development, a badger survey shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to



the Local Planning Authority. If new evidence of Badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures shall be implemented as approved.

Reason: Badgers are a highly mobile species and are known to create new setts and abandon and re-use existing setts in relatively short periods of time. The survey is to ensure the protection of Badgers under the Protection of Badgers Act 1992.

Informative notes

- i. *Great Crested Newts are protected under the 1992 Habitats Directive, the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations and the 1981 Wildlife and Countryside Act (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 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.*
- ii. *Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed. The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.*
  - *If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.*
  - *Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area.*
  - *Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife. The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.*
  - *All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.*
  - *Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be*

*provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*

- *Any 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).*

*iii. Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.*

- 31a. All trees, hedgerows and shrubs within the Site boundary but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works to the reasonable satisfaction of the Local Planning Authority.
- b. No disturbance shall take place to any established trees or shrubs within or surrounding the Site until after the end of the bird nesting season (March - June inclusive), unless a supplementary ecological survey has been submitted to and approved in writing by the Local Planning Authority which shows that the affected vegetation is not being used by any nesting birds.

Reason: To preserve and protect existing vegetation within the Site which is not allocated for removal and to safeguard any nesting bird species.

- 32a. All plant and machinery and structures within the Site which have been installed in connection with the operations authorised under this permission shall be demolished, and / or removed from the Site within twelve months of completion of cessation of the use hereby approved and the site shall be reinstated to its previous use as an agricultural field whilst retaining the approved landscape planting.

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

## RESTORATION

- 33a. Restoration of the Site involving soil replacement shall be carried out in dry ground and weather conditions. Soil shall be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils. All subsequent cultivation treatments shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise soil damage and to maximise the effects of the subsoiling and rooting operations.

- b. Movement of soils shall be carried out using low ground pressure equipment and in particular earth scrapers shall not be used for restoring best and most versatile agricultural land. Soils from areas scheduled for restoration to best and most versatile agricultural land shall be restored using the dump truck/loose tipping method in narrow strips of approximately 10 metres width. In particular dump trucks shall not travel on the replaced soils and any machinery travelling over the soils shall be kept to the minimum necessary to spread the soil and achieve a satisfactory restoration.
- c. During the replacement of soils and other materials the restoration of the Site shall be carried out in a sequence which shall prevent the mixing of topsoil, subsoil making material and overburden.

Reason: To ensure the satisfactory handling and spreading of soils for restoration.

34a. A minimum of 90 cm of subsoil shall be re-spread evenly over those areas approved to receive such subsoil. The subsoil shall be treated in accordance with the general requirements of Condition 54 above. Except where soils are being loose tipped no layer of replaced soil shall exceed 300mm thickness before it is subsoiled (rooted) and the subsoiling operation must penetrate at least 150mm into the underlying layer to relieve compaction at the interface. Subsoil upon which other soils have been stored shall also be subsoiled (rooted) in the same manner.

- b. Stones with a diameter in excess of 10cm or other deleterious materials shall be removed from Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

35a. After satisfactory replacement and treatment of the subsoil, a 30 cm layer of topsoil shall be re-spread evenly over those areas approved to receive such topsoil. The topsoil shall be subsoiled (rooted) and cultivated and topsoil upon which other topsoil has been stored shall be subsoiled (rooted) and cultivated in the same manner.

- b. All operations involving soil replacement and cultivation treatments shall only be carried out when the full volume of soils involved is in a suitable dry soil moisture condition.

Reason: To ensure the satisfactory restoration of the Site.

36. Stones with a diameter in excess of 10cm and any other material in the restored soil profile which is deleterious to the establishment of the proposed afteruses shall be removed from the Site or buried at considerable depth in a manner to be the subject of the prior approval of the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

#### AFTERCARE

37. The site shall undergo aftercare management for a 5 year period, commencing on the date at which the restoration is completed to the satisfaction of the Local Planning Authority.

Reason: To bring the land to the required standard for agricultural use and wildlife habitats.

38. A detailed aftercare scheme shall be submitted as soon as restoration of the site has been completed to the satisfaction of the Local Planning Authority. The submitted scheme shall provide for the taking of such steps as may be necessary to bring the land to the required standard for agriculture, including as appropriate:
- i. minor regrading works as necessary to alleviate the effects of settlement and surface ponding;
  - ii. measures to reduce the effects of compaction;
  - iii. fertiliser and lime application;
  - iv. cultivation works;
  - v. reseeding where necessary of any parts of the area sown which do not provide a satisfactory plant growth in the first year;
  - vi. grass cutting or grazing;
  - vii. replacement of hedge and tree failures;
  - viii. weed and pest control;
  - ix. drainage including the construction/maintenance of ditches and soakaways;
  - x. field water supplies
  - xi. under drainage
  - xii. vegetation management proposals including as necessary firming, re-staking, fertiliser application, thinning and replacement of failures within the aftercare period;
  - xiii. habitat management proposals within the aftercare period;
  - xv. track maintenance within the Site;
  - xvi. repair to erosion damage;

Reason: To ensure the establishment of a productive afteruse for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

## Development Management Report

Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 20/04435/FUL	<b>Parish:</b>	Shifnal
<b>Proposal:</b> Erection of nine affordable houses including associated drives following demolition of derelict pub including disused car park		
<b>Site Address:</b> The Beehive, Curriers Lane Shifnal TF11 8EQ		
<b>Applicant:</b> Mr Sepp Sargeant (Housing Plus Group)		
<b>Case Officer:</b> Emma Bailey	<b>email :</b> planning.southern@shropshire.gov.uk	

**Grid Ref:** 374928 - 308145



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

## REPORT

### 1.0 THE PROPOSAL

- 1.0.1 This application seeks full planning consent for the demolition of The Beehive public house and construction of nine affordable dwellinghouses and associated works.
- 1.0.2 The dwellings would be managed by Housing Plus Group (Sevenside Housing) with the tenure split between 3x shared ownership homes and 6x affordable rent. Each would be three bedrooms in size and have two off-street parking spaces.

The dwellings would split into three blocks of three, with plots 1-3 facing Broadway with parking to the rear accessed via a private drive. This private drive would also be shared with plots 4-6, which would be loosely parallel to plots 1-3 orientated at a right-angle to Curriers Lane. Plots 7 – 9 furthest east of the site would face Curriers Lane with parallel parking either side of this terrace.

- 1.0.3 During the course of the determination process, minor amendments to the design of these dwellings has been submitted to include the provision of chimney stacks and Beehive detailing to entrance railings from Curriers Lane, and removal of a gablet to plot 3 in accordance with comments made by the Conservation Officer.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.0.1 The application site lies within the development boundary of Shifnal, around 400m north of Shifnal's core retail area.
- 2.0.2 The site is currently occupied by The Beehive, a large detached public house with associated beer garden and carpark. The Beehive was closed around 2017 and has remained vacant in that time. The site has gradually fallen into disrepair with the condition of the site reported upon in 2019 in the local press.
- 2.0.3 The application site lies on the junction where Broadway (also known as Main Road and High Street) meets Curriers Lane. Access for the carpark is via an existing dropped kerb from Curriers Lane.
- 2.0.4 While not in itself a heritage asset, The Beehive lies less than 100m north of the Shifnal Broadway Conservation Area. It also lies near to two Grade II listed buildings, The White Hart to the north (40m) and The Wheatsheaf to the south (100m), both public houses.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.0.1 There is a Town Council objection contrary to the recommendation of the

case officer. In consultation with the local ward member, and in the view of the Principal Planning Officer in consultation with the Committee Chairman and Vice Chairman, it is considered that the proposal warrants further consideration at the South Planning Committee.

#### 4.0 **COMMUNITY REPRESENTATIONS**

Please note that all comments are available to view in full on the Shropshire Council website.

#### 4.1 **Consultee Comments**

##### 4.1.1 Shifnal Town Council

OBJECTION the layout is contrary to policy HG1 of the Shifnal Neighbourhood Plan. The private drive access and parking off Curriers Lane and position of Block 4-6 gable end onto the road would be visually detrimental to the Curriers Lane frontage and so would not be high quality design in keeping with the layout of the area as required by bullet point 1 of policy HG1. The siting of Block 4-6 close to and to the south of existing adjacent dwellings would have an adverse effect on the amenities of those dwellings contrary to bullet point 7 of policy HG1. The position of the access close to the junction with High Street would be detrimental to highway safety contrary to bullet point 8 of policy HG1. As previously recommended to the applicant, Block 4-6 should be turned to front Curriers Lane on the same line as Block 7-9 with the block extending over an arched opening to a parking area at the rear which would be in keeping with similar existing developments in High Street and Broadway. The Council are concerned that in the Design and Access Statement, the applicants refer to the Town Council having no objection to the principle of affordable housing but fail to mention that the Council objected to the layout as stated above and reported back to the applicants accordingly. This gives a false impression that the Town Council had no objection to the scheme which is not the case as stated above.

##### 4.1.2 Shropshire Council (Trees) – Re-consulted following receipt of additional details

Recommend conditions seeking a final landscape plan to be submitted and approved prior to the commencement of development, tree works and tree protection measures to be fully implemented prior to works on site commencing, and tree protection measures to be maintained throughout the duration of the construction works.

##### 4.1.3 Shropshire Council (Archaeology) – Re-consulted following receipt of additional details

Recommend condition seeking a phased programme of archaeological work in accordance with a Written Scheme of Investigation (WSI)

##### 4.1.4 Shropshire Council (Ecology)

Refer to standing advice if minded to approve.

##### 4.1.5 Shropshire Council (Regulatory Services)

Recommend that consideration is given to noise in relation to units 1-3.

4.1.6 Shropshire Council (Highways)

Recommend conditions relating to the implementation of the access layout and visibility splays, and the provision of parking and turning for vehicles prior to the development being first brought into use/occupied, restriction of heights of hedge/wall boundaries fronting the road, and the submission of a Construction Method Statement prior to commencement.

4.1.7 Shropshire Council (Drainage) – Reconsulted following receipt of additional details

The submitted surface water drainage scheme is acceptable.

4.1.8 Shropshire Council (Conservation) – Reconsulted following receipt of additional details

Withdraw previous objection subject to conditions requiring details of all external facing materials and finishes including joinery details.

4.1.9 Shropshire Council (Affordable Housing)

The proposal comprises 9 x 3 bed houses for affordable rent and shared ownership is fully supported by the Housing Enabling and Development Team. There is evidence of high affordable housing need in Shifnal. The figures released for January 2021 indicate 209 households on the waiting list who are seeking a home in Shifnal and of these there are 27 households requiring a 3 bedroomed property. This proposal if permitted and developed would address this need, in part. Any planning permission should be subject to conditions securing affordability in perpetuity of the rental dwellings and ensuring allocation is in accordance with the Council's Allocation Policy.

4.2 **Public Comments**

A site notice was placed at the application site 09.11.2020 and neighbour letters were sent.

Two letters of representation have been received at the time of writing this Report, making the following comments:

- The fence between the development and neighbouring property should be six feet tall for the entire length and if replaced should be able to withstand wind speeds of up to 65mph
- The gable end of block 1-3 may obstruct the signal of a Sky TV satellite dish. Any fee to reposition this dish should be paid for by the developer
- Can it be confirmed that the responsibility of ongoing maintenance of the development will be Housing Plus Group/Sevenside Housing
- When the town centre shared space is completed more traffic will be using Curriers Lane as a cut-through, causing congestion
- More houses being built will add to traffic levels
- Where will the people that attend Shifnal Senior Club park, on-street parking will add to the congestion



## 5.0 THE MAIN ISSUES

- Principle of development
- Assessment of the loss of The Beehive as a public house
- Affordable housing need
- Siting, scale and design
- Historic environment
- Highway safety
- Drainage
- Residential amenity
- Biodiversity
- Trees and open space

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning applications to be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The Council benefits from an adopted development plan which has been found to accord with the National Planning Policy Framework (NPPF). The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The Council's development plan consists at this time of the Core Strategy, Site Allocations and Management of Development (SAMDev) Plan and a range of Supplementary Planning Documents and adopted Neighbourhood Plans. This application lies within the catchment of the Shifnal Neighbourhood Plan, adopted 2016.

### 6.1.3 Development that affects a local service/facility

6.1.4 The loss of public houses is resisted in principle as they are regarded to be valuable community assets. Paras 83 and 92 of the NPPF promote the retention and development of local services for the benefit of sustaining local communities and encourages decision makers to guard against their unnecessary loss. Core Strategy policies CS08 and CS13 additionally recognise the contribution that public houses make as part of the wider tourism, leisure and food and drink offer within the county, adding to the quality of life for residents and visitors in Shropshire.

6.1.6 Policy CS06 of the same document recognises that there are occasions where closure is regrettable but inevitable. This loss should be counteracted by equivalent or improved provision, or where this facility, amenity, or service is to be lost completely, it should be clearly demonstrated that it is not viable over the long term.

- 6.1.7 Policy EC4 of the Shifnal Neighbourhood Plan similarly seeks to avoid the loss of employment premises. It requires any planning application that would lead to a loss of an employment facility to demonstrate that it has not been in use for a minimum of 12 months, that the enterprise is unviable following results of a viability report, and levels of interest following a marketing campaign lasting for a continuous period of a minimum of 12 months.
- 6.1.8 Residential development within Shifnal
- 6.1.9 A key objective of the NPPF is to significantly boost the supply of homes. This is a significant material consideration for decision-makers, where considerable weight must be attached when weighing a development for housing in the planning balance.
- 6.1.11 Policy CS01 of the Council's Core Strategy and Policy MD01 of the SAMDev Plan make it clear that new housing should be concentrated around sustainable locations within Shropshire, described as Market Towns, Key Centres, and Community Hubs and Clusters (see also policies CS03, CS04, CS05 and CS11 of the Core Strategy). Community Hubs and Clusters became designated sustainable locations for development in the SAMDev Plan when it was adopted in 2015, following consultation with local communities and parishes.
- 6.1.12 The application site falls within the development boundary of Shifnal which is identified within the SAMDev Plan as a Market Town/Key Centre. Policy CS03 of the Core Strategy specifies that development within Shifnal should meet local needs. The Shifnal Neighbourhood Plan broadly agrees with this, particularly the provision of smaller dwellings for first-time buyers and older people.
- 6.1.13 Policy CS10 of the Core Strategy and MD3 of the SAMDev Plan additionally give support to the appropriate re-use and development of brownfield sites.
- 6.1.14 Development that affects the historic environment
- 6.1.15 While not in itself a heritage asset, The Beehive lies a short distance (85m) from the Shifnal conservation area boundary and two Grade II listed buildings in a 100m radius. The development may therefore have some impact on their respective settings.
- 6.1.16 The NPPF states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; the desirability of new development making a positive contribution to local character and distinctiveness; and opportunities to draw on the contribution made by the

historic environment to the character of a place. Para 127 additionally makes it clear that developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

6.1.17 Policy CS06 of the Core Strategy, and MD02 of the SAMDev Plan also require great weight to be given to the conservation of Shropshire's heritage assets as a finite resource. Amongst other things, CS17 of the Core Strategy requires all development to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment, and not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.

## 6.2 Assessment of the loss of The Beehive as a public house

6.2.1 The planning agent has confirmed that The Beehive has been closed since 2017. However, it could re-open at any time as a public house. It is therefore necessary to assess whether, on planning balance, the total loss of this facility is unavoidable.

6.2.2 The Beehive is situated on one of the key vehicular routes into and out of Shifnal and is surrounded mainly by residential dwellings. It is a short walk from the main core of the centre of Shifnal, which is served by a broad range of services and amenities. The nearest public houses to The Beehive are The White Hart around 40m north, and The Wheatsheaf around 100m south, both designated heritage assets (listed grade II).

6.2.4 No supporting evidence has been submitted at this time to demonstrate what efforts have been made to re-open The Beehive and that its demolition is a last resort. However, internet research into the public house shows that it stopped advertising online in August 2016. This generally corroborates with imagery on Google Streetview, where the building and beer garden appear to be well-kept in June 2016, but by July 2018 the site is clearly overgrown and unkempt. Concerns surrounding its general condition as an empty building were reported upon on the Shropshire Star website in 2019 (<https://www.shropshirestar.com/news/local-hubs/telford/shifnal/2019/06/18/danger-concerns-on-abandoned-buildings-in-shifnal/>).

6.2.5 No evidence of the property being marketed either to let or for sale could be found at the time of writing this Report. Additionally, no financial information has been submitted to demonstrate that the business has been operating as an unviable business for a prolonged period of time. However, from the resources available to view online, including media coverage and satellite imagery, and an officer site visit, on the balance of probability The Beehive has struggled to remain open and profitable over a significant period of time. This subsequently led to its closure in 2017 and a lack of interest from prospective tenants and/or purchasers to run the

premises as a public house. No letters of comment have been received objecting to the loss of The Beehive as a public house.

- 6.2.6 Taking the above into consideration, the re-use the site for residential development is acceptable. When weighing the development in the planning balance, it is not considered that the loss of The Beehive as a public house would cause harm to the vibrancy or vitality of Shifnal, or the economy of Shropshire more generally. Rather, due to the length of the time that the pub has been closed, patrons will have naturally dispersed to others within Shifnal, of which there are two within a 100m radius.
- 6.2.7 The proposal is therefore acceptable in this regard.

### 6.3 **Affordable housing need**

- 6.3.1 The Council's Affordable Housing team has advised that there is evidence of a high affordable housing need in Shifnal. The figures released for January 2021 indicate that there are 209 households on the waiting list who are seeking a home in Shifnal and of these 27 households require a 3 bedroomed property. This proposal would therefore address this need in part. Any planning permission would be subject to conditions securing affordability in perpetuity of the rental dwellings and ensuring allocation is in accordance with the Council's Allocation Policy. (Conditions can be used in this instance rather than a Section 106 Agreement due to the applicants being a Registered Social Landlord).

### 6.4 **Siting, scale and design**

- 6.4.1 The NPPF sets out a framework of considerations that should be taken into account by decision-makers in assessing whether a development is acceptable from a design point of view. It ties good design as being a core part of what is 'sustainable development' - creating better places for communities to live, work and visit.
- 6.4.2 Para 127 sets out six key factors that new development should seek to achieve. It advises that developments should function well and add to the overall quality of the area; be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to local character and history, including surrounding built environment and landscape setting; establish and maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places; optimise the potential of the site to accommodate and sustain an appropriate mix of development (including green and other public space); and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for users, ensuring crime and disorder do not detract from the quality of life.
- 6.4.3 Para 130 makes it clear that permission should be refused for development of poor design that fails to take the opportunities available for

improving the character and quality of an area.

6.4.4 The Council's development plan policies MD02 of the SAMDev Plan and CS06 of the Core Strategy encourage development that is thoughtfully designed, for the benefit of both the site to which it would be built and its wider surroundings. They advise that consideration should be given to the impacts of that proposal upon neighbours and/or the local area more generally, including any specific benefits arising from that scheme. Policy CS17 also seeks to protect and where possible enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

6.4.5 Policy HG1 Design of Residential Development of the Shifnal Neighbourhood Plan additionally gives support to development within Shifnal that:

- \* demonstrates high quality design that is in keeping with the scale and character of buildings and layout in the area;
- \* complements the existing external materials in the town;
- \* provides variety in house design and elevation treatment;
- \* provides high quality boundary treatment;
- \* provides good pedestrian and cycle connections to the town and countryside;
- \* provides adequate storage for bins and recycling;
- \* does not result in an unacceptable loss of amenity for neighbouring uses through loss of privacy, loss of light or visual intrusion; and
- \* does not adversely affect road and pedestrian safety through traffic generation and parking

Matters relating to residential amenity are discussed later into this report.

6.4.6 It is proposed that The Beehive public house is demolished and replaced with nine affordable dwellings. The dwellings would split into three blocks of three, with plots 1-3 and 4-6 having the same appearance. Plots 1-3 would face out over Broadway at the Curriers Lane junction. Plots 4-6 would lie loosely parallel with Plots 1-3 but set back from this first terrace by gardens and a shared parking court, providing each dwelling with two bay parking spaces.

6.4.7 Both blocks would be linear in shape with a front-rear facing gable to plots 3 and 6 producing a hipped roof nearest to Couriers Lane. Plots 3 and 6 would be finished in white render, with remaining plots 1-2, and 4-5 having a facing brick exterior. All six dwellings would have tiled roof, stone cills and headers, timber porches and white upvc windows. Plots 1 and 4 would additionally benefit from a chimney stack following encouragement from the conservation officer.

6.4.8 Plots 7-9 would similarly have a linear form but would face south over Curriers Lane. They would be identical to one another with exception of the inclusion of a chimney stack either end of this terrace. Similarly to the

other plots on site these dwellings would have facing brick external walls, a tiled roof, stone headers and cills timber porches and white upvc windows. They would also benefit from two parking spaces each but laid out in a parallel fashion. Plot 8, at the centre of this terrace of three, would have rear access to the garden by private walkway across the rear of plot 7.

- 6.4.9 Boundary treatments would comprise of 1.8m close board timber fencing spanning the northern boundary nearest to Pickwick Court and the Shifnal Senior Social Club to the east and would also enclose the rear gardens for each dwelling. All dwellings would be set back a short distance from the roadside with metal railings adjacent to the pavement fronting Curriers Lane and Broadway.
- 6.4.10 The design and layout of the proposed dwellings is considered acceptable, where there is a broad mix of building styles and house types in the immediate area, as well as examples of shared private drives. The predominant material use of buildings is red brick and tile, however there are also examples of painted brick and render locally to the site, including on The Beehive which is white painted render facing the roadside. Examples of two storey terraced housing can be seen to the north of the application site at Pickwick Court and on the opposite side of Broadway at Mercian Court. It is considered appropriate in this case to break up the massing of the terraces into blocks of three, which would additionally provide variety in house design and elevation treatment as required in the Shifnal Neighbourhood Plan. The Council has no set standards in relation to garden sizes, however the proposed scale of gardens is considered to be broadly similar to surrounding dwellings.
- 6.4.11 On balance, it is considered that the proposal is acceptable in respect of siting, scale and design.

## 6.5 Historic environment

- 6.5.1 Policy CS06 and CS17 of the Core Strategy, and MD02 of the SAMDev Plan recognise the importance of preserving Shropshire's heritage assets as a finite resource. Development should take into consideration the high quality and local character of Shropshire's historic environment, and not adversely affect the historic values and functions of these assets or their immediate surroundings. Policy CH1 Derelict and Empty Buildings gives support to the re-use of sites provided that the works do not affect heritage assets such as the Shifnal conservation area.
- 6.5.2 In respect of the demolition of The Beehive, the Council's Conservation Officer does not regard the building to be of sufficient architectural or historic merit to warrant retention. Its demolition is therefore accepted, where it would not result in the unnecessary loss of historic fabric within Shifnal.
- 6.5.3 The Conservation Officer generally concurs with the findings of a

submitted Heritage Impact Assessment, which concludes that, on balance, the development would have a neutral impact upon designated and non-designated heritage assets, paying particular regard to tenement plots east of Broadway, The White Hart public house and The Wheatsheaf public house.

- 6.5.4 The Conservation Officer additionally agrees that the development would lead to some slight enhancement of the overall appearance of the site itself, especially the redevelopment of the carpark and retaining the corner plot presence within the street scene. Conditions have been recommended requiring details of external materials and joinery, however joinery details are not considered to be justified here, where the submitted plans indicate that fenestration is to be predominantly upvc and it has been concluded that the proposal would have a neutral impact on nearby heritage assets.
- 6.5.5 The Council's Senior Archaeological Advisor has additionally requested that a Written Scheme of Investigation is submitted in support of the application prior to works commencing should planning permission be granted, as the site is known to hold archaeological interest.

## 6.6 **Highway safety**

- 6.6.1 Core Strategy policy CS06 and Part 6 of the Shifnal Neighbourhood Plan encourages development in accessible locations, maximising opportunities for walking, cycling and use of public transport and reducing reliance on travelling by car and emphasises the need for safe developments.
- 6.6.2 Para 108 of the NPPF similarly advises that decision-makers should give consideration to the promotion of sustainable modes of transport, taking into account the type of development proposed and its location; that safe and suitable access can be achieved for all users; and that any significant impact upon the transport network, paying particular regard to capacity and congestion, or highway safety, can be cost-effectively mitigated to an acceptable degree.
- 6.6.3 Para 109 of the same document states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.6.4 The site is in an accessible location, close to the main core of Shifnal comprising of a broad range of services and amenities. The Council's Highways team has commented that the demolition of The Beehive would offer some benefit to road visibility at the Curriers Lane junction with Broadway provided that subsequent boundary treatments remain low. It is their professional judgement that the proposed development would not lead to an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe.

6.6.5 A letter of representation has been received seeking clarification on future parking arrangements for members of the adjacent senior social club, however the existing carpark serving The Beehive is not a public carpark. Any disputes relating to rights of access over this carpark would need to be pursued outside of the planning process as they are legal matters.

6.6.6 Conditions relating to the implementation of accesses and on-site parking and turning, boundary height restrictions and a Construction Method and Traffic Management Plan would be attached to any planning permission.

## 6.7 **Drainage**

6.7.1 Core Strategy policy CS18 relates to sustainable water management. Policy EN3 of the Shifnal Neighbourhood Plan additionally requires development to be designed and constructed to reduce the overall level of flood risk within the parish and to provide appropriate surface water drainage.

6.7.2 Following receipt of additional information the Council's Drainage Consultants are satisfied with the level of detail submitted and have withdrawn a previous request for planning conditions relating to surface water drainage.

## 6.8 **Residential amenity**

6.8.1 Core Strategy policy CS06 and Shifnal Neighbourhood Plan policy HG1 seek to safeguard residential amenity. In particular, the Shifnal Neighbourhood Plan gives support to development that does not result in an unacceptable loss of amenity for neighbouring uses through loss of privacy, loss of light or visual intrusion.

6.8.2 The layout of Plots 1-3 facing Broadway is considered acceptable, as it would broadly follow the existing line of development facing the road frontage. While not objecting to the scheme, the Council's Regulatory Services team has recommended that consideration is given to the layout of Plots 1-3 to minimise noise nuisance from the roadside, including setting them further back.

6.8.3 The internal floor layout of the dwellings is considered to be acceptable and appropriate, where the kitchen, W/C and first floor bathroom would be positioned nearest to the roadside. It is not considered necessary in this case to require these dwellings to be pushed further back from the roadside when existing dwellings already front this road at a similar distance. By setting the dwellings this would additionally reduce the size of rear gardens and be unlikely to achieve a significant reduction in noise impact given the open position of the site on the Curriers Lane junction.

6.8.4 Plot 1 would be positioned adjacent to the dwelling known as 2 High Street, where a single obscure glazed window exists at first floor level. Plot 1 would have a single window facing this dwelling at ground floor level



only, and so privacy would be preserved.

- 6.8.5 A letter of representation has been received seeking clarification on the height and specification of fencing, and the relocation of a Sky TV satellite dish. The boundary treatment in question is described on the submitted plans as 1.8m timber fencing, which is acceptable and a standard boundary treatment for developments in more built up areas such as this. Matters relating to the exact specification of this fence and the cost of moving a satellite dish would need to be negotiated with the developer outside of the planning process.
- 6.8.6 There is preference by Shifnal Town Council to re-orientate plots 4-6 to face out over Curriers Lane similarly to plots 7-9, with an arched opening to a parking court to the rear. However, the present layout would reduce the impact of the development upon No.4 and No.6 Curriers Lane opposite, which are bungalows. The layout as submitted in combination with the hipped roof at the end of the terrace is considered to reduce the overall mass of this terrace for the benefit of the occupiers of these bungalows. A ground and first floor window on the gable end nearest to Curriers Lane would maintain an active street frontage.
- 6.8.7 While Plot 4 would be positioned near to the rear garden boundaries of Pickwick Court, these dwellings are two stories in height and so the impact of the development would be less severe. The submitted site plan additionally demonstrates that this block, in particular Plot 4, would be offset from the rear elevation of 18 Pickwick Court as the nearest existing dwelling around 13m at its closest point. One window is proposed at ground floor level on this gable end, which would preserve privacy for both sets of occupiers.
- 6.8.8 Plots 7-9 facing Curriers Lane to the east of the site are considered to be acceptable in residential amenity terms, where the back-to-back separation distances to dwellings on Pickwick Court would measure around 18m at its nearest point. While Plot 9 would be adjacent to the Shifnal Senior Social Club, it is unlikely that the site would cause harm in terms of noise or other nuisance with the Council's Regulatory Services team raising no concerns. Plot 9 would be set back from the shared boundary by a driveway and positioned forward of this building.
- 6.8.9 Construction and delivery hours would be restricted to help mitigate the impact of the construction phase to neighbouring occupiers.

## 6.9 Biodiversity

- 6.9.1 Core Strategy policies CS6 and CS17 seek to ensure developments do not have an adverse impact upon protected species and accords with the obligations set out under national legislation. An extended phase one habitat report submitted with the application draws the following conclusions:

6.9.2 *The building on site was inspected internally and externally for any evidence of protected species which could be using the building for habitat. The inspection did not indicate that bats or birds were using the building or the roof space for roosting or for nesting. There was no access into the building or roof space identified internally or externally and therefore no mitigation for the removal of this potential habitat is required. The car park offers no foraging opportunities for bats and therefore the construction of the proposed dwellings on this habitat will not result in any impact to local bat species. No further survey work for bats is required and no mitigation is recommended.*

*The planning application will result in a loss of a small area of overgrown shrubs to the north of the existing building. This may offer some limited nesting habitat for birds during the breeding season. All shrub removal should be done outside the bird nesting season (March to the end of August). If this is not possible then a pre commencement survey by a qualified ecologist would be required, to ensure no birds were nesting within the foliage. If they are found to be nesting, then no shrub removal can be done until outside the nesting season.*

*There was no evidence of badger activity on the site, however the land within 50m of the proposed development boundary could not be surveyed as it is all part of private properties. It is unlikely there is any badger activity on the neighbouring land, as the property is surrounded by dense residential housing. No mitigation or further survey work for the species has been recommended.*

*There were no areas of open water within 250m of the site boundary, therefore no further survey work for great crested newts has been recommended and no mitigation for the species has been deemed necessary.*

*There were no statutory designated sites within 6km of the proposed development boundary and therefore no impact is predicted as a result of the proposals.*

*In order to enhance the site for wildlife, one multipurpose Schwegler bird box should be installed on each of the proposed dwellings. The landscaping of the site should include some tree or shrub planting of native, berry bearing species.*

6.9.3 The Council's Ecology Officer is content with the above findings, where the recommendations of the installation of a bird box on each dwelling and landscaping would be conditioned.

## 6.10 **Trees and open space**

6.10.1 Para 96 of the NPPF makes it clear that access to open space is important

for the health and well-being of communities. Policy MD02 of the SAMDev Plan advises that the amount of public open space to be provided by a residential development should be calculated on the basis of 30sqm per bedroom. Where developments are for 20 dwellings or more this space must comprise of a functional recreational space for play, recreation, formal or informal uses.

- 6.10.2 This application falls under the threshold of 20 dwellings and the site layout would only provide for some amenity planting adjacent to the private drive parking area. However, the agent has made reference to Wheatfield Drive and Curriers Lane play park as the nearest areas of existing public open space around 5 minutes' walk from the application site. These open green spaces are recognised within the Shifnal Neighbourhood Plan.
- 6.10.3 Having assessed the submitted details in respect of tree surveying, the Council's County Arboriculturalist has no objection to the scheme. Minor amendments to the proposed tree species to be planted as part of a robust landscaping scheme are recommended, where smaller, more upright growing species would avoid potential damage to hard surfacing and more long-term general maintenance issues. Conditions relating to pre-commencement tree works and tree protection measures, and the substitution of tree species on a final landscape plan would be attached to any planning permission.

## 7.0 CONCLUSION

- 7.0.1 Taking into consideration the combination of The Beehive public house having remained closed since 2017, the proximity of two public houses within 100m of the site, and the absence of objection to its loss from the public, it is considered unlikely that The Beehive will re-open as a public house and so its loss as a community facility is accepted.

Further, the building is not considered to be of sufficient architectural or historic merit to warrant retention as part of any future scheme, and so its demolition is accepted.

The site is classed as brownfield land within the development boundary of Shifnal and is surrounded mainly by residential dwellings. Its re-use for housing is therefore accepted.

As a 100% affordable housing scheme, this proposal would make a contribution of 9 affordable units to address in part an evidenced need within Shifnal for 3 bedroomed dwellings by 27 households as of January 2021. As the applicant is a Registered Social Landlord, planning conditions would be attached to any subsequent approval notice to ensure that the dwellings are affordable and that occupants comply with the Council's local connection criteria.

The siting, scale and design of the development would be appropriate, where there is a broad range of housing types and designs in the

immediate locality. External materials would be conditioned for approval.

The development would not cause harm to the respective settings of designated and non-designated heritage assets, paying particular regard to The White Hart and The Wheatsheaf public houses which are Grade II listed and Shifnal conservation area to the south.

The Council's Highways team have confirmed that the development would provide adequate on-site parking with a safe and suitable access, with conditions recommended.

The Council's Drainage team are satisfied with the level of detail submitted in respect of surface water drainage.

The development would safeguard the amenity of surrounding residential occupiers, minimising loss of privacy or overbearance. Conditions would be applied to any approval notice to limit construction/delivery hours during the construction period.

Ecological interests can be safeguarded through planning conditions.

The site lies within reasonable walking distance of two areas of public open space within Shifnal. No objection to the development has been raised by the County Arboriculturalist subject to conditions.

7.0.2 The proposal would satisfy the objectives of sustainable development set out within the NPPF. Conditional approval is therefore recommended.

## 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

CS6 - Sustainable Design and Development Principles

CS8 - Facilities, Services and Infrastructure Provision

CS11 - Type and Affordability of housing

CS13 - Economic Development, Enterprise and Employment

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S15 – Shifnal

Shifnal Neighbourhood Plan

SPD Type and Affordability of Housing

#### RELEVANT PLANNING HISTORY:

14/03157/COU Application under Section 73a of the Town and Country Planning Act 1990 for the change of use of car park to undertake car wash on site GRANT 9th July 2015

BR/76/0220 Continued use of existing building as a football club meeting room at the rear GRANT 7th December 1976

BR/APP/FUL/07/0229 Erection of a rear canopy/awning GRANT 3rd May 2007

BR/77/0869 Continued use of existing building as a football club meeting room GRANT 13th February 1978

#### 11. Additional Information

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

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

Design and Access Statement

Extended Phase 1 Habitat Report

Heritage Impact Assessment

Tree Survey

Drainage Calculations

Cabinet Member (Portfolio Holder)  
Councillor Gwilym Butler

Local Member

Cllr Kevin Turley

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. No above ground works shall commence until details of all external materials have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

4. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

5. No deliveries of construction materials, or construction or demolition work shall be carried out outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank or public holidays.

Reason: To protect the health and wellbeing of residents in the area.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**



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

Reason: The site is known to hold archaeological interest.

7. All pre-commencement tree works and tree protection measures as detailed in the Tree Condition Report, Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan (Arborist and Ecological Services Ltd, 14.12.20) shall be fully implemented to the written satisfaction of the Local Planning Authority, before any development-related equipment, materials or machinery are brought onto the site.

The development shall be implemented in complete accordance with the Tree Condition Report, Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan (Arborist and Ecological Services Ltd, 14.12.20). The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

Reason: to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

8. Prior to the commencement of the development hereby approved, a final landscape plan prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape Recommendations, or its current version, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include details as relevant of ground preparation, planting pit specification and the trees and shrubs to be planted in association with the development (including species, locations or density and planting pattern, type of planting stock and size at planting), means of protection and support and measures for post-planting maintenance. The plan should also include the installation of a proprietary root barrier alongside the edge of any path of parking bay close to newly planted trees to prevent future tree root growth disrupting the surface of those features.

The approved tree planting scheme shall be implemented as specified and in full no later than the end of the first planting season (November to February inclusive) following completion of the development. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the Local Planning Authority becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: to ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: - the parking of vehicles of site operatives and visitors - loading and unloading of plant and materials - storage of plant and materials used in constructing the development - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate - wheel washing facilities - measures to control the emission of dust and dirt during construction - a scheme for recycling/disposing of waste resulting from demolition and construction works - a Construction Traffic Management Plan and HGV routing agreement.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

10. Prior to the development hereby permitted being first brought into use/occupied the access layout and visibility splays shall be implemented in accordance with Drawing No.TC12/01/02.

Reason: To ensure a satisfactory means of access to the highway.

11. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

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

12. Prior to the first occupation/use of the development hereby approved, an appropriately qualified and experienced ecologist shall provide a report to the Local Planning Authority demonstrating implementation of the recommendations made in the Conclusion the submitted Extended Phase One Habitat Report (Arborist & Ecological Services Ltd, 8 September 2020).

Reason: To ensure the protection of and enhancements for wildlife.

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

13. Any hedge/wall or other boundary treatment fronting onto Curriers Lane and Broadway is to be kept at a height of 600mm at all times.

Reason: To ensure the provision of adequate visibility in the interests of pedestrian and highway safety.

14. The dwellings shall not be let or occupied other than either:

a) Lettings shall be made to persons under a form of tenancy permitted by the Homes and Communities Agency and at a rent (inclusive of applicable service charged) equal to or less than 80% of the open market rental value (or the maximum amount of local housing allowance payable for the Dwelling is this is lower); or

b) By way of a Shared Ownership lease or equity share arrangement whereby the occupier cannot progress to or achieve a share greater than 80% of the whole.

Reason: To ensure compliance with the requirements of Shropshire Core Strategy CS11 and to ensure affordability in perpetuity.

15. In addition to the requirements of the Shropshire Affordable Housing Allocation Policy and Scheme, all lettings by Registered Providers shall meet the local connection and/or cascade requirements set out in the Shropshire Type and Affordability of Housing SPD or any policy or guidance that may from time to time replace it.

Reason: To ensure compliance with Shropshire Core Strategy Policy CS11 with regard to local needs and prioritisation for local people.

### **Informatives**

#### 1. PARAGRAPH 38

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

#### 2. RELEVANT PLANNING POLICIES

In determining this application the local planning authority gave consideration to the following policies:

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

Shropshire Council Core Strategy policies:

CS01 Strategic Approach  
CS03 The Market Towns and Other Key Centres  
CS06 Sustainable Design and Development Principles  
CS08 Facilities, Services and Infrastructure Provision  
CS11 Type and Affordability of Housing  
CS13 Economic Development, Enterprise and Employment  
CS15 Town and Rural Centres  
CS17 Environmental Networks  
CS18 Sustainable Water Management

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

MD01 Scale and Distribution of Development  
MD02 Sustainable Design  
MD12 Natural Environment  
MD13 Historic Environment  
S15 Shifnal

Type and Affordability of Housing Supplementary Planning Document (SPD)

Shifnal Neighbourhood Plan

### 3. HIGHWAYS INFORMATIVES

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 or 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 new utility connection, or
- undertake 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.

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.

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

#### 4. ECOLOGY INFORMATIVES

##### Nesting birds informative

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

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

All vegetation clearance, tree removal and scrub removal and/or 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 vegetation and buildings for active bird nests should be carried out. If vegetation or buildings 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.

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>.

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

##### General site informative for wildlife protection

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

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

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

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

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

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

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

Any 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).

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.

#### Bats informative

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.

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.

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16 March 2021

**SCHEDULE OF APPEALS AS AT COMMITTEE 16 March 2021**

<b>LPA reference</b>	20/01360/VAR
<b>Appeal against</b>	Non-determination
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Alf Murray
<b>Proposal</b>	Removal of Condition No. 2 attached to planning permission SS/1/05/17285/F dated 12 September 2005
<b>Location</b>	Longville Arms Longville In The Dale Much Wenlock Shropshire TF13 6DT
<b>Date of appeal</b>	18.06.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	09.02.2021
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	18/04504/CPE
<b>Appeal against</b>	Not Lawful (Refused)
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr A Murray
<b>Proposal</b>	Application for a Lawful Development Certificate for continued residential use
<b>Location</b>	Old Coach House Longville Arms Longville In The Dale Shropshire TF13 6DT
<b>Date of appeal</b>	11.06.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	09.02.2021
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	19/03189/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs D Thomas and Miss C Rowson
<b>Proposal</b>	Erection of dwelling (outline application to include means of access, but with matters of appearance, landscaping, layout and scale reserved)
<b>Location</b>	Proposed Dwelling To The South Of Snailbeach Shropshire
<b>Date of appeal</b>	25.11.20
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	10.02.21
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	20/01847/FUL
<b>Appeal against</b>	Conditions
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr B Gardiner
<b>Proposal</b>	Erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge.
<b>Location</b>	Erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge.
<b>Date of appeal</b>	26.10.20
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	10.02.21
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	19/03289/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Messrs Trough
<b>Proposal</b>	Outline application (access,layout for consideration) for the erection of four dwellings with garages
<b>Location</b>	Proposed Development Land East Of The Old School Caynham Shropshire
<b>Date of appeal</b>	27.10.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	15.02.2021
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	19/00826/FUL
<b>Appeal against</b>	Non-Determination
<b>Committee or Del. Decision</b>	N/A
<b>Appellant</b>	Linney House Developments
<b>Proposal</b>	Proposed Residential Development Land Adjacent Linney House Linney Ludlow Shropshire
<b>Location</b>	Erection of 8no dwellings with car shelters; reprofiling of ground; restoration of stone boundary wall and creation of 2no vehicular access points
<b>Date of appeal</b>	15.06.2020
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	18.02.2021
<b>Costs awarded</b>	Dismissed
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	19/01742/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Luke Howells
<b>Proposal</b>	Erection of one dwelling (amended address)
<b>Location</b>	Proposed Dwelling At Crumps Brook Hopton Wafers Shropshire
<b>Date of appeal</b>	11.11.2020
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	12.01.2021
<b>Date of appeal decision</b>	22.01.2021
<b>Costs awarded</b>	N/A
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	20/03282/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Ms Carrie Plant
<b>Proposal</b>	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of a porch to the front elevation
<b>Location</b>	2 Mytton Close Shipton Much Wenlock TF13 6JX
<b>Date of appeal</b>	18.01.2021
<b>Appeal method</b>	Fast Track – Written Representation
<b>Date site visit</b>	09.02.2021
<b>Date of appeal decision</b>	23.02.2021
<b>Costs awarded</b>	N/A
<b>Appeal decision</b>	Dismissed



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## Appeal Decision

Site visit made on 24 September 2020

**by Iwan Lloyd BA BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 February 2021**

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**Appeal Ref: APP/L3245/W/20/3254576**

**Longville Arms, Longville in the Dale TF13 6DT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Alf Murray against Shropshire Council.
  - The application Ref 20/01360/VAR is dated 29 March 2020.
  - The application sought planning permission for conversion of outbuilding to provide holiday let unit without complying with a condition attached to planning permission Ref 1/05/17285/F, dated 12 September 2005.
  - The condition in dispute is No 2 which states that: "a) No person, family or group of persons shall occupy any part of the holiday accommodation hereby approved for a period of more than 4 consecutive weeks; b) Not less than 10 weeks shall elapse between each period of occupancy by the same person, family or group of persons".
  - The reasons given for the condition is: "To ensure that the development approved is not used to establish a permanent residential use, contrary to Policies SDS3, SDS4 and ED3 of the South Shropshire Local Plan".
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### Decision

1. The appeal is dismissed and planning permission for conversion of outbuilding to provide holiday let unit without complying with a condition attached to planning permission Ref 1/05/17285/F, dated 12 September 2005 is refused.

### Procedural matters

2. The appeal building is the northern half of a pair of cottages within the grounds of Longville Arms Public House. The appeal building is known as Coach House Cottage. The southern half of the pair of buildings is known as The Old Coach House. This is subject of a separate appeal for a Certificate of Lawful Use or Development under reference APP/L3245/X/20/3254145 and is dealt with under a separate appeal decision. The site visit for both appeals was conducted on the same day.
3. Had the Council determined the application the subject of this appeal it would have refused it. The Council's objections to the removal of the holiday use restriction condition would have been on the grounds of inadequate amenity standards for a residential dwelling and adverse living conditions for future occupants of the dwelling due to the shared access arrangement, no outside amenity space and proximity to the main public house building resulting in the potential for noise and disturbance to the occupants of the appeal building. The

Council also objects to the removal of the condition on the grounds that no affordable housing contribution is being offered or that removal of the condition would not adversely affect the vitality of the pub and the local community.

4. I was advised that Longville Arms was also subject an appeal and that this was allowed on 16 October 2020 for the change of use of former public house to residential under reference APP/L3245/W/20/3256872. The appeal decision and details of the approved layout has been provided, and in the light of this, I sought comments from the parties and they in turn have had an opportunity to comment on each other's reply. These comments and replies have been taken into account in the determination of this appeal.

### **Background and Main Issues**

5. The application indicates that the development was completed on 3 August 2006 following the grant of planning permission for conversion of outbuilding to provide holiday let unit on 12 September 2005. The application is therefore already carried out without complying with the condition imposed on the planning permission as indicated in evidence that the unit had been occupied as residential accommodation for some seven years since the appellant bought Longville Arms. A planning application to remove the condition restricting occupancy of the unit to holiday use was submitted but not determined in the prescribed timeframe. This now is the subject of this appeal.
6. The main issues are:
  - whether the condition is necessary and reasonable having regard to the living conditions of the occupants of the appeal building in relation to noise and disturbance and the provision of amenity space, if so, whether the removal of the condition would result in two inconsistent planning permissions on the site resulting in some parts of one development being incapable of being completed and implemented in its entirety in accordance with the relevant planning permission,
  - whether the removal of the condition would give rise for the need to make a financial contribution for affordable housing,
  - whether the removal of the condition would impact on the vitality of the pub and the social and economic vitality of the local community.

### **Reasons**

#### *Living conditions*

7. Coach House Cottage is located adjacent to the narrow lane which separates the cottages from the pub and provides access to the service yard of the former public house. It is reported that the pub closed in 2017 and the yard is presently partly fenced-off and is also enclosed by a range of outbuildings. There is no defined area in the application for an amenity space for the appeal building. Furthermore, the curtilage of the pub is the same as that defined for the appeal application for Coach House Cottage. This element of overlap in relation to the land they share provides no amenity provision for the appeal building. In my view, providing no outside amenity space for a dwelling house and its future occupants would be detrimental to their living conditions, because they would have no place to sit outside and enjoy and no outside areas for storage. The proposal to remove the holiday restriction condition

would therefore conflict with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD7a(4a).

8. Whilst there is a possibility to condition this aspect to ensure that provision is provided with the development there would be inconsistency with the planning permission granted on appeal reference APP/L3245/W/20/3256872 on 16 October 2020. This approval granted planning permission for a change of use of the public house to residential conditioned to a single residential unit. The approved plan showed all surrounding land within the application provided for the benefit of this single unit within the former pub. To condition part of the same land as amenity space for the benefit of Coach House Cottage would result in two inconsistent planning permissions on the same site. In my view, as presented both permissions could not be implemented.
9. Although the public house has been closed it remains the lawful use of the adjoining site. The appeal allowing the change of use of the public house to residential is material although I have no information whether it has been carried out. If the public house use was to continue this would cause unacceptable harm to the occupants of the appeal building as a dwelling house because the narrow lane separating the pub and Coach House Cottage would be used for deliveries resulting in disturbance. I also agree with the Council that there would be noise and disturbance from the public house given its close relationship with Coach House Cottage. The impact would not be similar if Coach House Cottage remains a holiday let, since occupancy would be variable and temporary. I therefore concur with the Council that the removal of the holiday restriction condition would conflict with SAMDev Plan Policy MD7a(4a).
10. Whilst the implementation of the planning permission for the change of use of the public house to residential would overcome this objection in relation to noise and disturbance, to allow the removal of the holiday condition restriction on Coach House Cottage would not outweigh my concerns in relation to outside amenity space and the issue of inconsistent planning permissions on the same site where both could not be implemented in their entirety in accordance with the relevant terms of each planning permission.
11. I conclude that the condition is necessary and reasonable having regard to the living conditions of the occupants of the appeal building in relation to noise and disturbance and the provision of amenity space, and the removal of the condition would result in two inconsistent planning permissions on the site resulting in some parts of one development being incapable of being completed and implemented in its entirety in accordance with the relevant planning permission.

*The need to make a financial contribution for Affordable housing*

12. The National Planning Policy Framework (February 2019) indicates that the provision for affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The appeal building is situated in an Area of Outstanding Natural Beauty and is therefore a designated rural area where the local planning authority may choose to set its own lower threshold in plans and seek affordable housing contributions from developments.

13. Shropshire Local Development Framework Policies CS5 and CS11 broadly seek a contribution towards affordable housing from all new housing developments. The Supplementary Planning Document (SPD), Type and Affordability of Housing, adopted in 2012 seeks an affordable housing contribution in line with the forementioned policies when conversions of holiday let to dwellings are considered. The Housing Enabling and Development Officer indicates that an affordable housing contribution is needed. The prevailing target for the Parish is 20% and the contribution would be based on the uncapped floor area of the property as set out in the SPD.
14. As no contribution is being offered in this case the development is contrary to the forementioned policies as set out above. I conclude that the removal of the condition would give rise for the need to make a financial contribution for affordable housing.

*The vitality of the pub and the social and economic vitality of the local community*

15. It is suggested that the loss of the holiday unit would adversely affect the vitality of the pub and the social and economic vitality of the local community. In granting planning permission for the change of use of the public house to residential the Inspector in that appeal considered the impact of the development on the social and economic vitality and quality of life of the local community. He concluded that the development did not have such an adverse impact on the local community because the pub itself was not a viable enterprise. I have no reason to depart from these considered views. The loss of the holiday let would not result in the loss of a revenue stream for the pub as this is no longer considered a viable enterprise and planning permission is granted for it to change to a residential unit. There is no compelling evidence to indicate that the loss of the holiday unit would adversely affect the vitality and sustainability of the local community. I therefore consider on the available evidence that the development would not conflict with Shropshire Local Development Framework Policy CS5.
16. I conclude that the removal of the condition would not impact on the vitality of the pub and the social and economic vitality of the local community.

**Other matters**

17. The appellant asserts that the appeal building is a heritage asset. However, as a matter of fact it is not a listed building, and I give the suggestion that it has special architectural or historic interest on the available evidence limited weight.

**Conclusions**

18. Notwithstanding my favourable conclusion for the appellant on the third issue this does not outweigh my conclusions on the first and second issues.
19. In the overall balance of the considerations, the development conflicts with the development plan and material considerations are insufficient to outweigh this conflict in this case. I conclude that the appeal should be dismissed.

*Iwan Lloyd*

INSPECTOR





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## Appeal Decision

Site visit made on 24 September 2020

**by Iwan Lloyd BA BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 February 2021**

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**Appeal Ref: APP/L3245/X/20/3254145**

**Old Coach House, Longville, Much Wenlock, Shropshire TF13 6DT**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Alfred Murray against the decision of Shropshire Council.
  - The application Ref. 18/04504/CPE, dated 28 September 2018, was refused by the Council by notice dated 16 December 2019.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is a C3 dwelling house.
- 

### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

### Procedural matters

2. The appeal building is the southern half of a pair of cottages within the grounds of Longville Arms Public House. The appeal building is known as The Old Coach House. The northern half of the pair of buildings is known as Coach House Cottage. This is subject of a separate planning appeal under reference APP/L3245/W/20/3254576 and is dealt with under a separate appeal decision. The site visit for both appeals was conducted on the same day.
3. I was advised that Longville Arms was also subject an appeal and that this was allowed on 16 October 2020 for the change of use of former public house to residential under reference APP/L3245/W/20/3256872. Both parties agree that the appeal has no bearing on this LDC appeal.

### Main Issue

4. This is, whether there has been a breach of planning control consisting in the change of use of the appeal building to use as a single dwellinghouse, where no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. Whether the use continued throughout the relevant period without significant interruption.

### Reasons

5. There is consensus between the parties that there is no extant planning permission pertaining to the Old Coach House which restricts occupation by way of a planning condition. The case made by the appellants is that Old Coach

House has been occupied for a continuous basis for residential use for at least four years beginning with the date of the breach so that no enforcement action may be taken by the Council and is not in contravention of any requirement of any enforcement notice then in force. The onus is on the appellant to demonstrate the case on the balance of probabilities. The relevant date in relation to the LDC is 28 September 2014, however, the date of the breach could be a time before this date as reflected in Section 171(B)(2).

6. The appellant indicates that the residential use on the application began on 1 March 2012. It is unclear when the appeal building was converted from a barn to residential use. The appellant indicates that the conversion would have taken place sometime prior to 2000 because the southern half of the first-floor appeal building was shown on the existing plan used for residential purposes in connection with planning permission SS/1/00/11060/F which was for the northern cottage building known as Coach House Cottage. This grant of planning permission was for conversion of a barn to 2 no. additional letting bedrooms and games room with no restrictive planning conditions imposed on the permission.
7. However, a similar existing plan showing the residential conversion of the first floor of Old Coach House is shown in connection with planning permission Ref 1/05/17285/F for the conversion of Coach House Cottage in 2005. The Council acknowledge that this permission was carried out. However, in response to the appellant's assertions the Council considers that Old Coach House was converted to letting bedrooms between 1985 and 2000 but maintains that it was not a separate residential unit. Whilst it is suggested that it was used as letting bedrooms there would have been no control over its use and occupation at that time and the residential use could have started around this period. This would mean that the breach of planning control could have continued for the requisite period and become lawful so long as it was not later abandoned.
8. However, the evidence is sparse on this point and cannot be conclusively presumed. The appellant's evidence of residential use for the requisite period is contained by a bundle of statements, rent list and utility bills for the period between 2013 up to the date of the LDC and beyond. By 2013 the appeal building must have contained all the facilities for day to day existence. There is no dispute about this point. It is also from around 2013 that which is claimed by the appellant that the actual use and occupation of the appeal building had begun.
9. Mr J Preece indicates in his statement that he moved into Old Coach House in 2013 and left in May 2018. He said that he used the property for residential purposes, he contributed to the payment of utilities but did not pay rent as he helped Mathew Murray (the appellant's son) to renovate both cottages. Once the major renovation works were completed, he paid £200 per month towards the utilities.
10. Mr Mathew Murray indicates that he lived in Coach House Cottage in 2013 and then moved to Old Coach House (the appeal building) prior to Mr Cashmore residency of Coach House Cottage and stayed at the appeal building until July 2017. In July 2018 he returned to Old Coach House until the present time. Mr M Murray did not pay rent but contributed to the utility bills whilst he worked on the renovation of the properties. Mr Cashmore's statement indicates that he moved into Coach House Cottage on 1 March 2016, which might suggest that

Mr M Murray moved out before then and into Old Coach House around February/March 2016.

11. Mr Alfred Murray statement indicates that Mr Preece occupied the Old Coach House as indicated above and that there was no formal tenancy agreement between the parties. The terms of the tenancy were that Mr Preece was required to decorate and renovate both cottages, but no rent was payable. After the works had been completed Mr Preece paid towards the outgoings and utilities. Mr Alfred Murray's statement corroborates the dates that Mr M Murray occupied Old Coach House and the terms of the tenancy.
12. The appellant has provided a bundle of electricity bills to cover the period from 22 March 2014 to 20 December 2018. These are provided from a period before the relevant date and after the LDC application date. The Council accept that there has been electricity consumption at a reasonable rate but does not accept that the supply relates to Old Coach House or that it provides evidence of residential occupation. The electricity utility bills from Scottish Power refer to Old Coach House. The NPower bills on 1 June 2015 is addressed to the Old Coach House and has printed on it the meter number of the property. The same meter point number is entered on the electric meter at the appeal property thereby corroborating that the NPower bill was for the Old Coach House.
13. It seems likely that in all probability that the Old Coach House was occupied as electricity was used on a consistent basis. The meter point reference is the same on the bill as that on the actual meter in the appeal building which links the electric usage to the appeal property. This evidence corroborates the statements made by the tenants and the appellant. It seems unlikely that the appeal building would have been left empty with the level of electricity usage incurred over the requisite period.
14. The Council is not convinced that the information is sufficient because there is no direct evidence of payment of rent, no tenancy agreement, payment of Council tax, electoral registration records and separate postal addresses.
15. The evidence provided on the decision to list the public house as an Asset of Community Value is of limited weight to the LDC appeal as is the letter from Shropshire Council Grant Claims Co-ordinator because they do not provide direct evidence in relation to the main determining issue. The evidence of deliveries of heating oil are also not directly and solely associated with the appeal property. Whilst tenancy records and proofs of rent payment are direct sources of evidence the appellant's explanation that the appeal building was let out on a more informal basis is plausible and does not undermine or make less than probable the evidence of continuous residential occupation of the appeal building.
16. The Courts have held that the appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted and if the local planning authority have no evidence of their own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of an LDC.
17. The appellant's evidence of residential occupation from 2013 to up to the date of the LDC and beyond is sufficiently precise and unambiguous and

corroborates with the supply of electricity to the property which was continuous throughout the relevant period. Furthermore, the electric utility bills were linked to the property because the name of the property and the meter point reference number unique to the property was also printed on some of these bills.

18. Turning to the issue of continuity of use throughout the relevant period there is a gap of one month when the property may not have been occupied. This is when Mr Preece moved out in May 2018 and when Mr Mathew Murray moved in July 2018. The appeal building would have been available for use but not actually used, although it may not have been obvious to the Council had it inspected the property during this time that there was any break in the continuity of use such that they could not have taken enforcement action. The period of a month between tenants, in my view, is not a significant break or interruption in the continuity of the use.
19. I conclude on the balance of probabilities that there has been a breach of planning control consisting in the change of use of the appeal building to use as a single dwellinghouse, where no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. I conclude on the balance of probabilities that the use continued throughout the relevant period without significant interruption.
20. For the reasons given above I conclude, on the available evidence, that the Council's refusal to grant a certificate was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*Iwan Lloyd*

INSPECTOR



## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 28 September 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The breach of planning control consisting in the change of use of the appeal building to use as a single dwellinghouse has taken place more than four years beginning with the date of the breach whereby no enforcement action may then be taken against the use. The use has continued throughout the relevant period without significant interruption.

Signed

*Iwan Lloyd*

Inspector

Date 09 February 2021  
Reference: APP/L3245/X/20/3254145

### **First Schedule**

C3 dwellinghouse

### **Second Schedule**

Old Coach House, Longville, Much Wenlock, Shropshire TF13 6DT

## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan

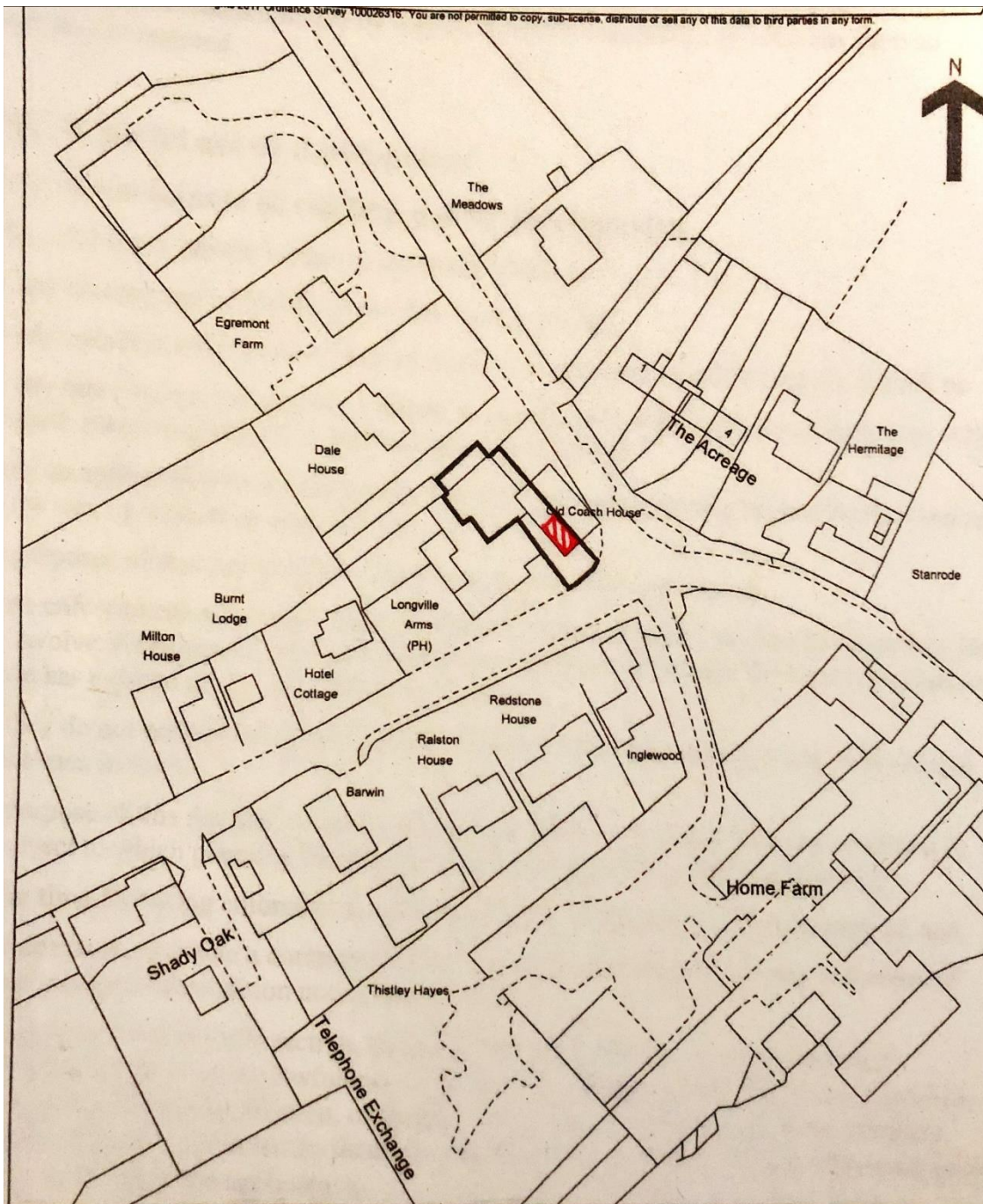
This is the plan referred to in the Lawful Development Certificate dated: 09 February 2021

by **Iwan Lloyd BA BTP MRTPI**

**Land at: Old Coach House, Longville, Much Wenlock, Shropshire TF13 6DT**

**Reference: APP/L3245/X/20/3254145**

Scale: Not to scale



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## Appeal Decision

Site visit made on 13 January 2021

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> February 2021**

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**Appeal Ref: APP/L3245/W/20/3261032**  
**Resting Fields, Snailbeach, Nr Minsterley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by C Rowson against the decision of Shropshire Council.
  - The application Ref 19/03189/OUT, dated 15 July 2019, was refused by notice dated 12 June 2020.
  - The development proposed is the erection of a detached open market dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application is in outline with all matters reserved for future consideration except for the means of access. Drawings showing an indicative layout of the development were submitted with the application, and I have had regard to these in determining this appeal.

### Main Issues

3. The main issues are:
  - (a) Whether the appeal site would accord with the locational requirements of development plan policy for new housing development;
  - (b) The effect of the development on the Shropshire Hills Area of Outstanding Natural Beauty ('AONB');
  - (c) The effect of the development on the setting of the Snailbeach Conservation Area; and
  - (d) The effect of the development on the ecological value of the site.

### Reasons

#### *Locational requirements of development plan policy*

4. The appeal site is located towards the edge of Snailbeach, which is a small settlement surrounded by open countryside. It is characterised by a relatively dispersed pattern of development and contains limited services and facilities.
5. Collectively, Snailbeach, Stiperstones, Pennerley, Tankerville, Black Hole, Crows Nest and The Bog are identified as a Community Cluster under Policies MD1 and S2 of the Shropshire Site Allocations and Management of

- Development ('SAMDev') Plan (2015). Policy S2 states that within this area development by infilling and conversions may be acceptable on suitable sites. A housing guideline of around 15 dwellings is set for the Community Cluster over the plan period to 2026, of which the Council states that 22 dwellings have already been built or granted planning permission.
6. There is no defined settlement boundary for Snailbeach, and so whether the appeal site is located within the village is a matter of planning judgement. In this regard, the appeal site is set above the nearest dwellings, within an area of woodland that extends up the hillside. This woodland is visually and topographically distinct from the properties to the west that front onto the main road and is separated from them by a dismantled railway line. Moreover, given the topography of the appeal site and the position of mature trees, any dwelling would inevitably be positioned away from the nearest dwelling at The Sidings. In these circumstances, I consider that the appeal site forms part of the woodland setting to Snailbeach and is not within the village itself. It is therefore in the countryside for planning purposes. However, even if I had come to a different view on this matter, the development would not comprise 'infilling' as required by Policy S2 as it is largely surrounded by woodland.
  7. Policy CS5 of the Shropshire Core Strategy (2011) supports development on appropriate sites which maintain and enhance countryside vitality and character, where they improve the sustainability of rural communities by bringing local economic and community benefits. However, for the reasons set out below, I do not consider that the development would enhance the character of the countryside, nor would it deliver any significant community benefits. The development is therefore at odds with Policy CS5. Moreover, SAMDev Policy MD7a is clear that new market housing will be strictly controlled outside of identified settlements. A number of exceptions are listed in both of these policies, none of which would apply to the appeal proposal. Whilst SAMDev Policy MD3 states that permission will be granted for other sustainable housing developments, this is caveated as being subject to other plan policies, including Policies CS5 and MD7a.
  8. Reference is also made to the presumption in favour of sustainable development at paragraph 11 of the National Planning Policy Framework ('the Framework'). However, there is nothing before me to indicate that the most important policies for determining the application are out-of-date. Moreover, even if that were the case, the application of policies in the Framework relating to AONBs provide a clear reason for refusing the development.
  9. My attention has been drawn to a number of recent approvals for new housing development in Snailbeach. However, the full details of those cases, including the Officer Reports and approved plans, are not before me. I am therefore unable to assess any direct comparability to the current appeal proposal. In any case, I have come to my own view on this matter rather than relying on the approach the Council may have taken elsewhere.
  10. For the above reasons, I conclude that the development would not accord with the locational requirements of development plan policy for new housing development. It would be contrary to Policies CS4 and CS5 of the Shropshire Core Strategy (2011) and Policy MD7a of the SAMDev Plan (2015) in this regard.

## AONB

11. The appeal site is located within the Shropshire Hills AONB. Decision makers have a statutory duty<sup>1</sup> to conserve and enhance the natural beauty of AONBs, which are afforded great weight by the Framework.
12. The appeal site is situated within the scenic wooded hills that form the backdrop to Snailbeach at the edge of the AONB. These hills are prominent in longer views from the surrounding area and are an attractive feature within the landscape. The proposed dwelling would be positioned on steeply rising land and would inevitably be set away from existing properties within the village. It would relate poorly to the existing pattern of development, being on higher ground and largely surrounded by woodland. In this regard, it would appear as a prominent outward encroachment of the village up the hillside. Whilst existing trees and planting would provide some screening when in leaf, my site visit took place in January when most of the trees had shed their leaves. At this time, the site was clearly visible from along the main road and in longer views, and the development would appear as a discordant intrusion into the hillside for much of the year. This would be harmful to this part of the AONB in my view.
13. The development would also necessitate the removal of a number of mature trees and would also create significant pressure to remove further trees within the site (I return to this matter below). This would erode the wooded character of the hillside, to the detriment of the natural beauty of the AONB.
14. An extract from the ordnance survey map of 1882 has been provided that appears to show the appeal site as being outside of the wooded area at that time. However, the site is currently dominated by mature trees and is mostly surrounded by existing woodland. This defines the site's present character to a far greater degree than the lightweight fencing along its boundaries.
15. For the above reasons, I conclude that the development would significantly harm the scenic qualities of the Shropshire Hills AONB. It would therefore be contrary to the relevant sections of Policies CS6 and CS17 of the Shropshire Core Strategy (2011), which seek to protect the landscape and natural environment. It would also be at odds with the Framework in this regard.

### *Conservation area setting*

16. The appeal site is positioned on the edge of the Snailbeach Conservation Area, which encompasses much of the village as well as land and buildings associated with historic mine workings. The significance of the conservation area stems from its large number of well-preserved buildings and spaces that reflect the development of the lead mining industry in the village.
17. The setting of the conservation area is dominated by the wooded western flank of the Stiperstones ridge, which rises steeply from the village. This provides an attractive edge to the settlement that is highly visible in the surrounding area. As set out above, the development would result in a significant visual encroachment into this wooded area and it would be an elevated and discordant feature. This would harmfully intrude into the setting to the conservation area in my view. Whilst I note that 3 properties (The Oaks, Highview House, and Galena) are located a short distance to the north east,

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<sup>1</sup> Section 85(1) of the Countryside and Rights of Way Act 2000 (as amended)

they are better related to the existing village and are less visually isolated than the appeal proposal.

18. For the above reasons, I conclude that the development would fail to preserve the setting of the Snailbeach Conservation Area. This harm would be 'less than substantial' in the context of Paragraphs 195-196 of the Framework. However, the public benefits associated with the scheme, including the provision of a new family dwelling and the generation of economic benefits, would not outweigh the harm in this case.
19. The development would therefore be contrary to guidance in the Framework relating to designated heritage assets. It would also be at odds with the relevant sections of Policies CS6 and CS17 of the Shropshire Core Strategy (2011), Policies MD2 and MD13 of the SAMDev Plan (2015). These policies seek to ensure, amongst other things, that new development contributes to local distinctiveness, preserves its historic context, and avoids harm to designated heritage assets.

### *Ecology*

20. The appeal site consists of native broadleaf woodland, which is a UK Biodiversity Action Plan priority habitat. It contains a significant number of mature trees, 9 of which are proposed for removal in order to facilitate the development. Of these, 6 trees are identified as being in Category A3 in the submitted Tree Condition Report<sup>2</sup>.
21. Whilst layout is a reserved matter, the position of the proposed dwelling is largely dictated by the topography of the site and by existing trees. The illustrative layout would necessitate the removal of 9 trees in order to accommodate the proposed dwelling and access route. However, I note that almost the entirety of the outdoor amenity area serving the dwelling would also consist of woodland. In this regard, mature trees would dominate the rear of the property and would heavily restrict light to any rear facing windows or patio areas. This would be likely to cause significant resentment and lead to pressure to remove further trees once the dwelling is occupied. Moreover, a number of trees positioned in front of the property would obscure open views to the north west and so are also likely to cause resentment, leading to pressure for their removal.
22. In addition, it would not be possible to create a traditional garden and lawn area without removing a number of other trees. Any lawn or flowerbeds that were created would also be heavily overshadowed. Furthermore, future occupiers may perceive the nearest trees as a potential hazard to the property. These factors are likely to create significant additional pressure to remove trees once the dwelling is occupied. The visibility of many of the trees from public vantage points is also limited and so any unauthorised felling would be difficult to detect.
23. Accordingly, I consider that the development would significantly undermine the longer term existence of other trees within the site, in addition to those currently identified for removal. The loss of further trees would clearly detract from the ecological interest of the site. It is unclear from the information before me whether the proposed buffer planting would be capable of

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<sup>2</sup> Forester & Arborist Services Ltd (20 June 2019)

adequately mitigate this, and only limited detail has been provided in this regard.

24. For the above reasons, I conclude that the development would be likely to significantly harm the ecological value of the site. It would therefore be contrary to the relevant sections of Policies CS6 and CS17 of the Shropshire Core Strategy (2011), and Policy MD12 of the SAMDev Plan (2015). These policies seek to ensure, amongst other things, that new development avoids harm to natural assets, and protects and enhances the natural environment.

### **Other Matters**

25. The precise orientation of the dwelling and the position of its windows do not fall to be considered at this stage. However, given the distance to the nearest dwellings to the west, I am satisfied that it would be possible to develop the site without significantly harming the living conditions of neighbouring occupiers with regard to overlooking and loss of privacy.
26. The development would not involve the loss of any high-quality agricultural land. However, that is a neutral consideration rather than a positive benefit.

### **Conclusion**

27. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR

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## Appeal Decision

Site visit made on 13 January 2021

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> February 2021**

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**Appeal Ref: APP/L3245/W/20/3259915**

**Crimond, 85 Ludlow Road, Church Stretton, SY6 6RA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Ben Gardiner against the decision of Shropshire Council.
- The application Ref 20/01847/FUL, dated 11 May 2020, was approved on 29 July 2020 and planning permission was granted subject to conditions.
- The development permitted is erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge.
- The conditions in dispute are Nos 5-11 which state that:
  - (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).*
  - (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.*
  - (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.*
  - (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.*
  - (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.*

*(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.*

*(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:-*

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

- The reasons given for the conditions are:

*(5) To ensure satisfactory drainage of the site and to avoid flooding.*

*(6) In the interests of visual amenity.*

*(7) To ensure that the external appearance of the development is satisfactory and help ensure a reasonable standard of residential amenity.*

*(8) To ensure that the retaining walls are adequate for their intended purpose and in the interests of the visual amenities of the area.*

*(9) To ensure the provision of roosting opportunities for bats and nesting opportunities for wild birds.*

*(10) 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) To maintain the scale, appearance and character of the development and to safeguard visual and residential amenity.*

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## **Decision**

1. The appeal is allowed and planning permission Ref 20/01847/FUL for erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge at Crimond, 85 Ludlow Road, Church Stretton, SY6 6RA granted on 29 July 2020 by Shropshire Council, is varied by deleting conditions 5, 6, 7, and 11 and substituting for them the conditions set out in the attached schedule.

## **Procedural Matter**

2. It is asserted that as the Council failed to determine the application within the statutory timescales, the conditions attached to permission Ref 20/01847/FUL are therefore void. However, that is not the case, and the approval of the application beyond those timescales did not invalidate the conditions.

## **Main Issue**

3. The main issue is whether the disputed conditions are reasonable and necessary in order to make the development acceptable in planning terms.



## Reasons

### *Condition 5 - scheme of surface and foul water drainage*

4. Policy CS18 of the Shropshire Core Strategy (2011) states that all developments, including changes to existing buildings, shall include appropriate sustainable drainage systems to manage surface water. It further states that development must not result in an increase in runoff.
5. In combination, the approved replacement dwelling and detached annex would have a significantly larger built footprint than the pre-existing property. This is likely to result in an increase in runoff, contrary to Policy CS18. The Council also states that the site is in area at risk of surface water flooding, which has not been disputed. In these circumstances, a condition requiring a scheme of surface water drainage to be submitted and approved is both reasonable and necessary in order to comply with Policy CS18, and to ensure that satisfactory drainage arrangements are provided that do not increase flood risk elsewhere.
6. However, as the site already benefits from a foul drainage connection it is unnecessary for this matter to be subject to a condition. In addition, the requirement that drainage details be submitted and approved only once demolition has taken place, but before ground works have commenced, is unduly onerous in my view. Accordingly, I have altered the wording of this condition to allow these details to be provided prior to the construction of the replacement dwelling and associated annexes above slab level.

### *Condition 6 - details of the proposed roof mounted solar array*

7. Condition 6 refers to a "proposed roof mounted solar array" and requires that this be removed within three months following the cessation of its use. However, the submitted plans clearly indicate that an integral solar roof is proposed, rather than a mounted array. I further note that condition 4 requires the submission and approval of samples/precise details of all external materials and their colour/finishes. That would include details of the integral solar roof. Condition 6 is therefore unnecessary, and I have removed it.

### *Condition 7 - scheme of landscaping*

8. The approved replacement dwelling would be served by the garden area to the pre-existing property. Given that this is an existing arrangement, it would be disproportionate to require a full landscaping scheme covering the entire garden in my view. However, the front boundary of the appeal site currently consists of an attractive hedgerow that contributes to the character and appearance of the surrounding area, which is within the Shropshire Hills Area of Outstanding Natural Beauty. I also note that the approved dwelling contains a number of side-facing windows that would look out towards No 87 at first floor level. At present, existing boundary planting provides a degree of screening that would assist in preserving the privacy of that property. In my view, this boundary planting should either be retained or replaced. I have therefore amended the wording of condition 7 so that it relates solely to planting along the boundaries.

*Condition 8 - retaining walls*

9. Condition 8 relates to the proposed realignment of the retaining walls at the rear of the site. This realignment and the regrading of land in this area are shown on the approved plans and are necessary in order to accommodate the approved replacement dwelling and the detached annex. They therefore form part of the proposal before me regardless of whether the wall itself constitutes permitted development. In any case, these works appear to comprise a separate engineering operation of substance, and there is no Lawful Development Certificate before me to confirm that they would be permitted development. Land instability is a planning issue, and so whether the retaining wall is adequate for its intended purpose is clearly relevant to planning.
10. In my view, this condition is reasonable and necessary in order to ensure that the new dwelling is not put at unacceptable risk from, or adversely affected by, land instability. At the time of my site visit, the new retaining wall appeared to have been constructed, and so this condition may be in breach. However, that would be a separate matter between the appellant and the Council.

*Condition 9 – ecological enhancements*

11. Condition 9 requires the installation of at least 1 bat box and 1 bird box, as recommended by the Outline Ecological Impact Assessment (Eco Tech, April 2020). This condition further requires that these features be retained for the lifetime of the development, which is contested by the appellant. However, planning permission runs with the land rather than with the applicant or appellant, and should the property change hands the responsibility for retaining these features would pass to the new owner or occupier.
12. I consider that this condition is both reasonable and necessary in order to secure appropriate ecological enhancements to this site. I therefore see no reason to vary or remove it.

*Condition 10 - annex accommodation*

13. The development proposes 2 self-contained annexes, one of which would be integral to the main dwelling, and the other of which would be detached and positioned in the rear garden area. Both of these annexes would contain a dedicated kitchen and bathroom and so could in theory be occupied as separate units of accommodation. Given the layout of the proposal, including the position of habitable room windows and the garden areas, the separate occupancy of either annex would be likely to result in a significant loss of privacy. Accordingly, it is necessary to control the occupancy of the annexes by condition. The current wording would not prohibit the use of the annexes for purposes ancillary to the residential use of the dwelling, such as home working, and I therefore see no reason to remove or vary this condition.

*Condition 11 – permitted development rights*

14. Condition 11 removes a number of permitted development rights from the approved dwelling, including those relating to extensions, additions or alterations to the roof, porches, and outbuildings. With regard to extensions, permitted development rights could be used to add significantly to both the side and rear of the approved dwelling. Such extensions would be likely to unbalance the appearance of the property, which would be harmful to the character and appearance of the area. Moreover, a rear extension under

permitted development rights could significantly reduce the size of the back garden, to the detriment of the living conditions of its occupiers. I therefore consider that removing these permitted rights is both reasonable and necessary in this case.

15. With regard to additions to the roof, the approved dwelling would have a gable frontage and so any dormers constructed under permitted development rights would be side facing. Such additions would be likely to harmfully alter the appearance of the building and could result in a perception of overlooking to neighbouring occupiers. Accordingly, I consider it necessary to remove these permitted rights. However, other alterations to the roof, including rooflights, would not alter the appearance of the building to the same extent. I have therefore varied the wording to this condition to remove reference to these.
16. Separately, a large outbuilding could be constructed to the side and/or rear of the approved dwelling under permitted development rights. This could significantly reduce the rear garden space available to the host property, to the detriment of its occupiers. I therefore consider it necessary to remove permitted development rights in this regard. However, permitted development rights relating to porches are far more modest, and their use would be unlikely to significantly alter the appearance of the approved dwelling. Accordingly, I do not consider it necessary to remove these permitted rights, and I have varied the wording of the condition to reflect this approach.

### **Other Matters**

17. This decision does not create a new and separate planning permission and it is therefore unnecessary to re-impose the other conditions attached to permission Ref 20/01847/FUL. In this regard, the original decision and this appeal decision should be read together.
18. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

### **Conclusion**

19. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting some of the disputed conditions and substituting others.

*Thomas Hatfield*

INSPECTOR

### **Schedule of Conditions**

- 1) Prior to the construction of the replacement dwelling and associated annexes above slab level, a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the replacement dwelling.
- 2) Prior to the construction of the replacement dwelling and associated annexes above slab level, details of boundary planting shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall:
  - identify existing trees and hedges along the boundaries that are to be retained
  - identify measures to protect the retained trees and hedges during the construction process
  - provide details of any replacement boundary planting
  - provide a timetable for the implementation of any replacement boundary planting and the installation of protection measures

Any replacement boundary planting and/or protection measures shall be completed in accordance with the approved details and timetable. Any retained trees and hedges or replacement planting which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, additions to the roof, or outbuildings, as permitted by Classes A, B, and E of Part 1 of Schedule 2 of that Order, shall be erected other than those expressly authorised by this permission.



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## Appeal Decision

Site visit made on 13 January 2021

**by Thomas Hatfield BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> February 2021

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**Appeal Ref: APP/L3245/W/20/3260240**

**Playing field adjacent to previous village school, Caynham, Shropshire, SY8 3BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Messrs Craig, Scott & Dene Trough against the decision of Shropshire Council.
  - The application Ref 19/03289/OUT, dated 16 July 2019, was refused by notice dated 2 July 2020.
  - The development proposed is outline application for the erection of 4 No self-build dwellings with garages.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline. In this regard, layout, and the means of access fall to be considered at this stage, whereas appearance, scale, and landscaping are reserved for future consideration. The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that 'layout' means the way in which buildings, routes and open spaces within the development are provided, situated, and orientated in relation to each other and to buildings and spaces outside the development. Those matters therefore fall to be considered under this appeal.
3. A Unilateral Undertaking ('UU') has been submitted that commits the owner to provide 4 serviced plots to persons included on the Council's Self-Build Register. It also commits the owner to transfer land to Caynham Village Hall for use as a car park and a children's play area. The UU is signed and dated, and I have taken it into account in reaching my decision.
4. The site has been subject to a previous dismissed appeal decision<sup>1</sup> for housing development. I attach significant weight to the previous Inspector's findings, albeit that decision was published prior to the adoption of the Shropshire Site Allocations and Management of Development ('SAMDev') Plan (2015). The previous appeal scheme also did not propose self-build dwellings, or the transfer of land to form a village hall car park and a children's play area.

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<sup>1</sup> APP/L3245/A/14/2221002

## **Main Issue**

5. The main issue is whether the appeal site is in a suitable location for residential development with regard to its accessibility to services, facilities, and public transport, and the provisions of local planning policy.

## **Reasons**

6. The appeal site is located within Caynham, which is a small village located around 2 miles from the edge of Ludlow. It consists of a former school playing field that is largely surrounded by existing residential properties.
7. Caynham is served by a church and a village hall but otherwise contains very few services and facilities. In this regard, the nearest convenience stores and primary schools are some distance away in either Ludlow or Ashford Carbonel. Moreover, the route to those settlements is mostly along unlit country roads with no pedestrian footway that are subject to national speed limits. It is therefore unlikely that future occupiers would walk or cycle to these settlements on a regular basis, and to do so after dark would be dangerous. Access to public transport is also very limited, and the Council states that the village only benefits from one bus service per week. In these circumstances, I consider that the site has poor accessibility to services, facilities, and public transport. Accordingly, future occupiers would be heavily reliant on the use of a private car.
8. Paragraph 103 of the National Planning Policy Framework ('the Framework') states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. In addition, paragraph 78 of the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby. However, I consider that the appeal site has poor accessibility even allowing for its rural location. Moreover, given the proximity of Ludlow, future occupiers would be likely to draw mainly on services and facilities there rather than in nearby villages.
9. Policy CS4 of the Shropshire Core Strategy (2011) states that in rural areas investment will be focused into identified Community Hubs and Community Clusters. The appeal site is not located within one of these settlements and is therefore in the countryside for planning purposes. In this regard, Core Strategy Policy CS5 and SAMDev Policy MD7a seek to strictly control new market housing development in the countryside. A number of exceptions are listed in these policies, none of which would apply to the appeal proposal.
10. The appellant is critical of the process by which Community Hubs and Community Clusters were identified through the preparation of the SAMDev Plan. However, that process was scrutinised by the examining Inspector, who concluded that it was sound. The identified Community Hubs and Clusters now form part of the development plan, and I see no reason to revisit this matter in the context of a planning appeal made under section 78.
11. My attention has been drawn to the High Court judgement *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin). However, that case related primarily to 'isolated homes in the countryside', as referred to at paragraph 79 of the Framework. In this regard, I acknowledge that the appeal site is located within the settlement of Caynham and is not physically isolated

from other properties. However, that does not alter my view that it has poor accessibility to services, facilities, and public transport.

12. The SAMDev Plan was subject to a Main Modification that committed the Council to an early review of the plan. The examining Inspector also commented that there was a high reliance on windfall sites. Whilst I understand that the Council is in the process of undertaking this review, it is currently at a relatively early stage of preparation. However, it is common ground that the Council is able to demonstrate a deliverable 5 year supply of housing sites, and so the policies most relevant for determining this application are not out-of-date in this regard.
13. SAMDev Policy S10 does not stipulate that the main housing sites in Ludlow be delivered in the first 5 years of the plan, and I note that the plan period runs to 2026. Moreover, the Council state that the housing guideline of 875 units for the Ludlow area has already been significantly exceeded in terms of completions and permissions granted. The Council has also exceeded its requirements under the recently published Housing Delivery Test figures. Accordingly, there is no persuasive evidence before me of any shortfall of housing sites or delivery in this area.
14. For the above reasons, I conclude that the appeal site is not in a suitable location for residential development with regard to its accessibility to services, facilities, and public transport, and the provisions of local planning policy. The development would therefore be contrary to Policies CS4 and CS5 of the Shropshire Core Strategy (2011), and Policy MD7a of the SAMDev Plan (2015) in this regard.

### **Other Matters**

15. The Council has a duty under the Self Build and Custom Housing Act 2015<sup>2</sup> to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to grant enough permissions to meet this demand. However, the extent to which the Council is meeting demand for this type of housing is disputed, particularly in the south of the county. Moreover, it is asserted that the development plan is out of date as it does not refer specifically to the provision of self-build or custom-build housing. I return to these matters in my Overall Balance and Conclusion, below.
16. Planning Practice Guidance relating to self-build and custom housebuilding was updated in February 2021. This re-iterates that demand established by the Council's self-build and custom housebuilding register is likely to be a material consideration in decisions involving such proposals. It further states that self and custom build dwellings help to diversify the housing market and increase consumer choice. I have had regard to this updated guidance in reaching my decision.
17. The submitted UU commits the owner to transfer land to Caynham Village Hall for use as a car park and a children's play area. In this regard, the current village hall has limited parking available to it and so this would be a clear benefit of the proposal. However, there is nothing before me to indicate that Caynham Village Hall has either the available funds or the willingness to develop a children's play area on this site, and to manage and maintain it

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<sup>2</sup> As amended by the Housing and Planning Act 2016.

thereafter. Accordingly, it is unclear whether the UU will deliver this benefit, and I therefore attach only limited weight to it.

18. It is asserted that the appeal site comprises previously developed land, as per the definition set out at Annex 2 of the Framework. However, whilst the former school building (now converted to a dwelling) and car park clearly comprise previously developed land, it is not clear that the rest of the site can be considered as such. In this regard, the former playing field consists of disused open land that does not form part of the garden area to the dwelling. Accordingly, it does not appear to fall within its curtilage. Moreover, there are no substantial structures located on it and it has an undeveloped character. However, even if I had come to a different view on this matter, it would not have altered my decision.
19. The proposed layout and access arrangements would result in the loss of a significant part of the hedgerow that currently runs along the south western boundary of the site. This is an attractive feature that contributes positively to the character of the area. Moreover, it is likely that any retained elements would be significantly cut back in order to improve visibility at the entrances to the properties.
20. Interested parties assert that the appellant has no right of access to the site from Caynham Court, which is a private road. However, rights of access are a civil matter that fall outside of the planning regime.

### **Overall Balance and Conclusion**

21. As set out above, I conclude that the development would be in an unsuitable location for residential development with regard to accessibility to services, facilities, and public transport, and the provisions of local planning policy. It would be contrary to the development plan in these respects. It would also result in the loss of part of an attractive hedgerow that runs along the south western boundary of the site.
22. Set against this, the development would provide 4 self-build dwellings for persons included on the Council's Self-Build Register. It would also provide a new parking area to serve the village hall and land for a children's play area, although for the reasons given above, I attach limited weight to the latter. Moreover, it would generate some economic benefits through the creation of employment and the purchasing of materials and furnishings.
23. In these circumstances, even if the 'tilted balance' at paragraph 11 of the Framework were engaged, and the shortfall in self-build housing were as significant as is alleged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in my view. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
24. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR





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## Appeal Decision

Site visit made on 1 February 2021

by **Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

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**Appeal Ref: APP/L3245/W/20/3250229**

**Land adjacent to Linney House, The Linney, Ludlow, Shropshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Linney House Developments Ltd against Shropshire Council.
  - The application Ref 19/00826/FUL, is dated 5 February 2019.
  - The development proposed is for the reprofiling of ground, restoration of stone boundary wall and construction of eight houses.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Linney House Developments Ltd against Shropshire Council. This application is the subject of a separate Decision.

### Procedural matters

3. The appellant challenges the Council's description of the proposed development and explains that it was originally further described in the application form as involving the 'Demolition of single storey garage and part stone shed. Restoration with the formation of revised access points of the existing stone roadside boundary wall. Reprofiling of ground and the construction of eight detached dwellings, together with comprehensive landscaping and the formation of a natural riverside communal area'. I have considered the appeal on the basis of the appellant's preferred description.

### Main Issues

4. The main issues in this appeal are:
  - Whether the site is a suitable location for housing, and
  - Whether the proposed development would preserve or enhance the character and appearance of the Ludlow Conservation Area.

### Reasons

#### *Suitability of location*

5. The development plan for the area consists of the Site Allocations and Management of Development Plan 2015 (SAMDev) and the Shropshire Local

Development Framework Adopted Core Strategy 2011 (the Core Strategy). Policy CS1 of the Core Strategy sets out the Council's strategic approach to new development with further explanation of the Council's approach provided in policy MD1 of the SAMDev. Core strategy Policy CS3 sets out that development within Market Towns and Other Key Centres such as Ludlow must take place within the identified development boundaries and on sites allocated for development. Policies MD1 and policy S10 as it relates to Ludlow, housing development will be delivered primarily on the allocated housing sites east of the A49 as set out in Schedule S10.1 and identified on the Policies Map as well as infill and windfall developments within the town's development boundary.

6. Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev establishes that new market housing will be strictly controlled outside market towns and only permitted in specified circumstances, including where the development meets evidenced housing need and other relevant policy requirements. Policy MD3 makes clear 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 other considerations set out in the Policy.
7. The proposal seeks permission for the reprofiling of a former quarry area within the grounds of Linney House, a Grade II listed building immediately to the east and comprising of some 1.1Ha, which would facilitate the erection of eight detached open market houses with car shelters, the restoration of an existing stone boundary wall and the provision of two passing places along the narrow highway. The Linney marks the northern limits of the development boundary for Ludlow; the appeal site lies wholly outside these limits. The Linney forms the site's southern boundary with the winding River Corve delineating the northern boundary.
8. The site has a distinctly woodland character with a substantial number of mature and semi-mature trees, some of which have self-seeded along the terraces of the former quarry area and adjoining the riverbank. Whilst some tree clearance has taken place in recent years, the site maintains a distinct woodland block both from The Linney and from higher ground within the town, including from the castle ramparts and from Coronation Avenue and the countryside to the north.
9. Although there are two dilapidated buildings adjoining The Linney that would be removed as part of the proposals, they do not alter the general appearance of a block of woodland that seamlessly blends into and contributes towards the distinctly rural character and wider countryside to the north. This is particularly evident from more elevated land within the town and where the foreground of development on the southern side of The Linney has an altogether more built-up character and a sense that The Linney is a remarkably appropriate northern limits to the town. The development would lead to an urban encroachment into this area along the banks of the River Corve to the serious detriment of the wider rural character and appearance. Additionally, as the site lies outside the development boundary, the proposal would conflict with the strategic aims of Policies CS5 and MD7a.
10. My attention has been drawn to previous extant planning permissions<sup>1</sup> for three large detached open market houses at the appeal site, which the appellant

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<sup>1</sup> Council References 12/02275/FUL and 17/00230/FUL

claims represents an important fallback position that should be afforded substantial weight. Moreover, the appellant is of the view that it provides a starting point that as a matter of principle, housing development is acceptable on this site. I have no doubt that there is a strong prospect in the event of this appeal being dismissed, that the three dwellings will be built out and in this regard, the consideration of the fallback is a material consideration that should carry some weight in terms of the principle of development at this location.

11. For this matter to be determinative however, the approved development would need to be less desirable than what is now proposed. It is very clear to me that a scheme for 8 houses cannot reasonably be comparable with the consented scheme given the land-take and tree clearance that would be involved. The urbanisation effects of eight houses at this location by comparison to three houses would be considerable and in the context of this location, harmful. Therefore, I give limited weight to the fallback.
12. The Council's latest figures on its five year land supply position suggests that the number of completions together with sites with planning permission, Prior Approvals and allocations are well in excess of the Housing Guideline figure for Ludlow and this is not disputed by the appellant. As set out in the above policies, additional sites outside development boundaries will only be required if the housing guidelines is unlikely to be met or if there are other over-riding material considerations. The Council does not dispute that the overall quality of the appeal scheme represents a well-designed contemporary styled development lying immediately adjacent to the development boundary. However, the same could be true about many other well-conceived schemes and I am not persuaded that these factors alone should override development plan policies that are currently meeting the needs of the local area in terms of housing delivery. Moreover, I also share the Council's concerns with respect to the effects on the conservation area, which I deal with later.
13. In the absence of any conflicting evidence to the contrary, I am satisfied that the housing requirements of Policy S10 will likely to be achieved during the plan period. Even if that was not the case, I am also required to consider Policy MD3, which in relation to developments falling outside adopted development boundaries, requires compliance with other relevant local plan policies and I now turn to those below.

*Character and appearance - Conservation Area*

14. The Ludlow Conservation Area comprises a wide range of exquisite and grand buildings below the castle and the classic market building with its hill of Georgian buildings descending down to the River Teme and its tributary River Corve. The Conservation Area includes broad expanses of open countryside on the lower valley floor to the west and the north, which includes the appeal site. The countryside setting is an important part of the character and appearance of the Conservation Area. The arc of the surrounding countryside makes a significant contribution both in terms of its historic relationship with the town and its castle and to their settings. The setting of the castle in particular takes full advantage of views outwards from the castle ramparts towards the countryside to the west and north.
15. The appellant claims that the proposed development has been carefully devised primarily with the intention to resolve potential flooding problems arising from past quarrying operations. Taking the natural slope of Linney House that lies

above areas of flood risk, the land would be recontoured at similar levels to provide appropriate building platforms. Two access points to the site would be formed at the site's southern and northern corners with two passing places constructed by setting back and rebuilding the stone wall that forms the boundary with The Linney. According to the Council's Tree Officer and supported by the appellant's arboricultural report, the proposal would see the removal of a significant portion of the existing woodland. Whilst the report suggests that the majority of trees on site that would be lost are of relatively low amenity value, there is also an acknowledgment that their loss could only be compensated by the provision of considerable new replacement planting and subsequent management.

16. The appellant explains that the proposal has been the subject of lengthy and protracted pre-application discussions in relation to the design of the proposed dwellings and the need for particular attention to be given to the lower portion of the site adjoining the river margin in terms of new planting and effective management of existing trees. The Council appears not to object to the design of the houses, which in my view are of contemporary design and which would incorporate an acceptable palette of materials that would be consistent with what may be found in the immediate locality. Furthermore, I acknowledge that replacement planting would take place along The Linney.
17. I have carefully considered the appellant's Landscape and Visual Impact Assessment (LVIA) and note its conclusions that the effects arising from the development would be Moderate Adverse leading to Slight Adverse as the replacement tree planting proposed in the tree report reaches maturity. The Council does not dispute the findings and robustness of the appellant's landscape and visual assessment. However, I share the Council's concerns that the findings of the LVIA rely heavily on existing trees falling outside the appeal site whilst the extent of tree felling proposed and the limited space available for effective landscaping between the plots would mean that the proposed mitigation would not be entirely effective either in the short term or long term. Simply, the proposal would lead to the erosion and fragmentation of what is presently a highly natural and, in addition, potentially ecologically rich habitat in local terms, particularly given its riverside location.
18. During my site visit I was able to view the site from each of the selected viewpoints. The site visit took place at the height of winter when leaf cover was very significantly reduced. Other than viewpoint 3, which I consider would be more appropriately categorised as Moderate-Adverse using the descriptors of the LVIA, I am satisfied that such analysis accurately portrays the impacts. However, even at Moderate-Adverse, this level of impact in this case would be unacceptable due to the loss of the woodland, which is a significant local landscape feature. Moreover, the loss of some of the woodland would be very noticeable at a number of sensitive receptors from elevated parts of the conservation area and would be harmful as a result.
19. In addition, there would be significant encroachment into the riverside views towards the castle and the town from open fields within the conservation area to the north and the west, which would be harmful. Moreover, the appeal development when viewed along a lengthy section of The Linney would have an unacceptable urbanising effect to the detriment of the character and appearance of this part of the conservation area. These features presently

- make a highly positive contribution to this heritage asset's significance and which would not be sufficiently mitigated with the proposed landscaping.
20. Consequently, the proposal would fail to either preserve or enhance the character or appearance of the Ludlow Conservation Area contrary to the expectations of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act). Insofar as local development plan applies to the development proposed in this context, I also consider that the proposal fails to comply with policies CS6 and CS17 of the Core Strategy and Policies MD2, MD13 and S10 of the SAMDev. Such policies set out to ensure that new development, amongst other things, protects, conserves and enhances the historic environment and context together with the character and significance of heritage assets.
21. I acknowledge that the development would also be within the setting of Linney House a Grade II Listed Building; however, no objection to this aspect was raised by the Council and I am satisfied that in the exercise of my duties under section 66(1) of the 1990 Act, the proposed development would not be harmful to the setting of this building due to the building's orientation, its own setting within an enclosure of mature trees and the level of additional landscaping.
22. Paragraph 196 of the Framework advises that, where the significance of a designated heritage asset, in this case the Ludlow Conservation Area, would be unacceptably harmed by a proposed development, the degree of harm should be assessed and where less than substantial harm is concluded, that harm should be weighed against any identified public benefits of the proposal. In this instance, I find that the level of harm would be of the magnitude of less than substantial.
23. The public benefits of the proposal in this instance include the benefits that would accrue from eight additional houses in a relatively sustainable location close to the Ludlow town centre and its wide range of services. The appellant is also willing to provide two passing places along The Linney, which is predominantly a single lane carriageway for much of its length and to rebuild the existing historic stone boundary wall along the frontage of the site with The Linney. In addition, eight dwellings would provide some economic and social benefits. There would also be a requirement for affordable housing to be provided in the form of off-site financial contributions. However, the latter would be a requirement of the Council's prevailing policy and therefore the weight afforded to affordable housing would be limited. Given the number of dwellings involved, the totality of public benefits involved would at best be limited. As a counter, paragraph 193 of the National Planning policy Framework sets out that, when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This factor unequivocally outweighs the identified public benefits.

### **Other matters**

24. The appellant has provided a Unilateral Undertaking that would provide an affordable housing contribution despite believing that none is necessary due to the additional financial burden of providing highway improvements, which along with the rebuilding of the boundary stone wall is estimated would cost in the region of £150,000. However, as I am dismissing the appeal on the

substantive matters detailed above, I need not consider the matter further at this time.

25. My attention has been drawn to a revised scheme proposal for the development of the appeal site. This scheme does not form part of the current appeal and has had no bearing on my consideration of the merits of the appeal proposal.

**Conclusion**

26. I have found that the appeal scheme would not be a suitable location for further development having regard to the prevailing development plan and notwithstanding that there is an extant permission for a smaller scheme at this site. Moreover, whilst there are limited public benefits associated with the appeal development, they do not outweigh either this policy harm nor the harm that to the character and appearance of the conservation area that I have identified. Therefore, taking all matters into account, I conclude that the appeal should be dismissed.

*Gareth W Thomas*

INSPECTOR



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## Costs Decision

Site visit made on 1 February 2021

by **Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

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### **Costs application in relation to Appeal Ref: APP/L3245/W/20/3250229 Land adjacent to Linney House, The Linney, Ludlow, Shropshire**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Linney House Developments Ltd for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the reprofiling of ground, restoration of stone boundary wall and construction of eight houses.
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### **Decision**

1. The application is refused.

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive. In this instance, the applicant refers to the Council's alleged unreasonable approach during the processing of the planning application.
3. The main parties submitted their cases in writing and therefore there is no need to repeat them in full. The applicant seeks a full award of costs.
4. Essentially, the applicant claims that they have been proactive in their engagement with the Council over a lengthy period of time. From the very outset they were keen to establish a partnership with the Council whereby all parties could formulate a scheme of excellence in design terms having regard to the sensitivities of the site. Some remedial work was initially necessary to identify flood levels and which required the felling of some 20 trees according to the applicant. This caused a level of discord with specialist officers of the Council, which the applicant believes tainted further positive dialogue. The planning application was subsequently lodged; however, there followed a long period of inactivity despite the applicant commissioning several technical reports in an effort to respond to the concerns expressed by consultees of the Council and its officers. A number of amendments have been presented to the Council and a significant amount of correspondence submitted. In the applicant's view, the Council has prevaricated and failed to determine the application in a timely manner.
5. For the Council, it itemises the steps taken at each stage to seek agreement to an extension of time for determination of the application and only recently

went beyond the agreed timetable because a revised planning application had been submitted for the site and the Council wished to continue further dialogue with the applicant, presumably to ascertain their intentions and to avoid the prospect of appeals. It has moreover, fully explained its position to the applicant in relation to the appeal scheme but wished nevertheless to continue working with them on the later scheme in order to achieve a mutually acceptable outcome. The Council considers this to be particularly pertinent given that there is a potential "fallback" position at this site. The Council refutes the allegation that it has been obsessed about the number of trees that were felled on site and that this has had no bearing on the consideration of the appeal scheme itself.

6. I accept that unnecessary delays on the part of the Council can amount to unreasonable behaviour under the costs regime. Notwithstanding the significant efforts made by the applicant in engaging with the Council throughout the pre-application, application and appeal process, the Council's confirmation of several extension of time agreements with the applicant and who seemingly agreed to such extensions suggests to me that the Council has sought to work with the applicant or at the very least, offered to provide the applicant with the full opportunity to resolve outstanding matters. A letter to the applicant's solicitor dated 21<sup>st</sup> October 2019 in my view helpfully explains in some detail the remaining outstanding concerns of the Council about the appeal scheme. It included a reasonable offer to meet further with a view to progressing the planning application. However, the applicant appears not to have taken up the offer but instead decided to exercise their rights to lodge an appeal against non-determination.
7. Whilst I sympathise with the applicant about the length of time taken to reach that point, given what I have read and as evidenced in the various communications, consultation responses and explanations given by the Council, I do not consider that this amounted to unreasonable behaviour on the part of the Council. Moreover, both the PPG and the National Planning Policy Framework encourage local planning authorities to take a positive approach and work proactively with applicants. Despite the length of time taken to determine the application, I have little substantive evidence to indicate that the Council was reluctant to engage proactively with the applicant. This is evidenced by the involvement of senior officers of the Council.
8. I find that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

### **Conclusion**

9. The application for a partial award of costs is refused.

*Gareth W Thomas*

INSPECTOR





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## Appeal Decision

Site visit made on 12 January 2021

by **B Davies MSc FGS CGeol**

an Inspector appointed by the Secretary of State

Decision date: 22 February 2021

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**Appeal Ref: APP/L3245/W/20/3260681**

**14 Crumpsbrook, Hopton Wafers, Shropshire, DY14 0EP**

- 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 Mr Luke Howells against the decision of Shropshire Council.
  - The application Ref 19/01742/FUL, dated 8 April 2019, was refused by notice dated 18 August 2020.
  - The development proposed is a dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. During the process the address and description of development were amended with agreement between both parties, and I have reflected these changes in the banner above.

### Main issue

3. The main issue is whether or not the location is suitable for housing with reference to local and national policies.

### Reasons

4. The appeal site is a field surrounded by trees and hedges, located on the lower slopes of Catherton Common. It is separated by fields and woodland from other houses in the small, loose and rural settlement of Crumpsbrook, which is accessed from the main road via a series of unmade tracks. The settlement is otherwise surrounded by open moorland. It is proposed to self-build a detached, 4-bedroom house in a traditional style.
5. Policy CS1 of the Shropshire Local Development Framework Core Strategy (adopted March 2011) (CS) states that development in rural areas should be predominantly in community hubs and clusters. These are identified in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (adopted December 2015) (SAMDev).
6. The nearby 'community cluster settlements' of Hopton Wafers and Doddington are both approximately 2 km south of the site. Hill Houses, part of the Cleobury Mortimer community cluster, is approximately 0.5 km to the north. No definite boundaries are associated with cluster settlements.

7. However, although these villages are easily accessible from Crumpsbrook, in the same parish, and no doubt share many of the same facilities, these factors do not necessarily qualify it to be part of a named cluster settlement. The Council has confirmed that Crumpsbrook was consciously omitted from the list in Policy MD1 and I therefore conclude that the appeal site is not in a cluster settlement.
8. I also note that, even if the appeal site was located in a cluster settlement, it would not meet the requirements of Policy S6 because it does not comprise an infill plot adjacent to existing development.
9. Policy CS4 of the CS and Policy MD7a of the SAMDev state that development will not be allowed outside cluster settlements unless it meets the requirements of Policy CS5. The proposal does not meet any of the exceptions listed in Policy CS5. However, I consider that the introductory wording of 'particularly where they relate to' and use of 'other relevant policy requirements' in MD7a means that this is not a closed list.
10. However, all of the examples given are notable for their clear association with economic activity in rural areas. The appellant works at a local construction firm, but evidence has not been provided to demonstrate that this meets the requirements to qualify as an essential countryside or rural worker. In addition, the policy makes it clear that open market housing beyond cluster settlements will only be allowed if conservation of an existing building is proposed. I conclude that the proposal does not meet the requirements of Policies CS5 and MD7a.
11. There is similar provision in paragraph 77 of the National Planning Policy Framework (2019) (Framework) for market housing on rural exception sites. However, this is for the purpose of meeting an identified local need, which, for the reasons above, has not been demonstrated.
12. I sympathise with the desire for the appellant to build his own house within the settlement in which he grew up. However, there is no specific support for this in local or national policies. A local connection test can be designed for such a purpose by the Council, but this has not been developed for open market housing in Shropshire. The appellant argues that the Council's decision not to have a local connection test for open market housing is one that should be subject to a development plan process. Assessment of this is beyond the scope of this decision.
13. The proposal would therefore conflict with Policies CS1, CS4 and CS5 of the CS, and Policies MD1 and MD7a of the SAMDev, which together protect the countryside from inappropriate development.

*Self-build and custom housing supply considerations*

14. The Government is actively seeking to increase the supply of self-build housing. The Planning Practice Guidance (PPG) relating to self-build and custom housebuilding was updated in February 2021. This re-iterated that the demand established by the Council's self-build and custom housebuilding register is likely to be a material consideration in decisions involving such proposals.
15. The Housing and Planning Act (2016) (the Act) requires that authorities must give suitable development permissions in respect of enough serviced plots of

land to meet the demand for self-build houses in each base period. The Council has provided figures to demonstrate that it has granted sufficient permissions to have complied with the Act. The fact that the development would be self-build therefore attracts negligible weight.

16. The appellant is sceptical of these figures, but no evidence has been provided to demonstrate that they are incorrect, and I must base my decision on the information before me. The legislation does not specify how suitable permissions must be recorded. However, the figures provided show that sufficient open market plots were granted planning permission to exceed the number of self-build applications over the base period. The open market plots were identified through monitoring applications for self-build relief from CIL, which is a recognised method for recording suitable permissions<sup>1</sup>.
17. I acknowledge that Paragraph 61 of the Framework recommends that planning policies should reflect the housing need for different groups in the community, including self-build homes. In addition, the local development plan was adopted before the Act and does not contain specific policies regarding self-build housing. However, as sufficient plots have been provided since the Act was established, this indicates that the existing policies are effective in meeting its requirements. Paragraph 213 of the Framework states that existing policies are not automatically out of date because they were made prior to the Framework, but rather according to their degree of consistency with it. I do not find the LDP to be inconsistent with the Framework in respect of reflecting and meeting local housing need.
18. In his final comments, the appellant has also drawn my attention to a nearby planning application for a self-build house, but in the absence of further details, I am unable to make an assessment of this.
19. I have had regard to the 3 appeals brought to my attention by the appellant. It is not in dispute that a Unilateral Undertaking or Section 106 agreement could be an appropriate method to secure the development as a self-build property. In the Ledbury, Herefordshire case<sup>2</sup>, the Inspector did not agree with the method used by the Council for self-build calculations, which is not applicable here. In the remaining cases<sup>3,4</sup>, the Inspectors could not be confident that the plots cited by the Council would help meet the demand for self-build. I have not found this to be the case in the current appeal.

#### *Other matters*

20. The site does not meet the definition of previously developed land. The definition in the Framework excludes land where the remains of a permanent structure has blended into the landscape. In this case, the original house burnt down in the 1950s and the remains are no longer obvious.
21. The appellant has provided amended figures for housing need in Shropshire based on calculations from an external consultant's website using the 2020 Standard Method. Details of the methodology are not before me, and regardless, as these were received as part of the appellant's final comments, the Council has not had an opportunity to comment, so I have not taken these

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<sup>1</sup> Planning Practice Guidance: Paragraph:038 Reference ID:57-038-20210508 (Revision date 8 February 2021)

<sup>2</sup> APP/P1615/W/18/3213122

<sup>3</sup> APP/G2435/W/18/3214451

<sup>4</sup> APP/W1850/W/19/3237354

figures into account. The government's 2020 Housing Delivery Test results<sup>5</sup> indicate that delivery of housing in Shropshire has significantly exceeded the number of homes required.

**Other considerations and conclusion**

22. The proposal is for a building with high quality insulation, using local materials where possible. It is stated that rainwater capture, solar energy and ground source heating will be considered, which, if they came to pass, would weigh in favour of the proposal. However, they would be of minor overall benefit given the small scale of the development and would not be sufficient to overcome the significant conflict with the local development plan.
23. Local housing and self-build quotas are being fulfilled, no exceptional local need has been identified and the site is not otherwise a suitable location for open market housing according to local and national policies.
24. The proposal conflicts with the local development plan when read as a whole, and for this reason, the appeal is dismissed.

*B Davies*

INSPECTOR

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<sup>5</sup> Published 19 January 2021



## Appeal Decision

Site Visit made on 9 February 2021

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 February 2021**

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**Appeal Ref: APP/L3245/D/20/3266114**

**2 Mytton Close, Shipton, Much Wenlock TF13 6JX**

- 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 Carrie Plant against the decision of Shropshire Council.
  - The application Ref 20/03282/FUL, dated 13 August 2020, was refused by notice dated 5 November 2020.
  - The development is described as an enclosed porch on the front of our property
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. At the time of the site visit I noted that the porch has been partially constructed. The application has been submitted retrospectively and I have dealt with the appeal on this basis.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

### Main Issue

4. The main issue is the effect of the development upon the character and appearance of the host property and the area.

### Reasons

5. The appeal property comprises a semi detached dwelling located within a ribbon of development surrounded by open countryside. The pair have a simple form and appearance and are set back and set down from the road. The porch has been partially constructed with a dual pitch tiled roof and chamfered design with dark frames and glazing. Properties in the area vary in terms of age, design and set backs from the road.
6. Whilst the host property is set down from the road the porch by virtue of its overall width, projection and height is unduly prominent appearing as an incongruous feature that dominates the front of the dwelling and significantly disrupts the appearance of the pair of properties. The overall size and form of the porch results in harm to the character and appearance of the host property and the area. Given the overall size and form of the porch I am not satisfied

the presence of cars on the driveway would significantly obscure views of it from the street.

7. Although the frames are sympathetic to the host property the overall appearance of the porch, including its chamfered design, deep overhanging roof and the choice of materials do not complement the dwelling, but jar against its simple appearance. The appellant has indicated that they would be willing to consider alternative materials and finishes. As the details are not before me, I have not taken this into account in coming to my decision.
8. I acknowledge that there is no uniformity to dwellings in the area and the porch reduces views across the neighbouring properties frontage. However, these factors are not sufficient justification for a scheme that I have found to be harmful.
9. The appellant has suggested that the porch provides additional storage and a space for changing clothes. Whilst these are personal benefits of the proposal, they are insufficient to outweigh the harm I have identified in relation to the main issue.
10. The lack of objection from the local committee counts neither for nor against the proposal and does not lead me to reach a different conclusion that the appeal should be dismissed.
11. I conclude that the proposed development would adversely affect the character and appearance of the host property contrary to Policies CS6 and CS17 of the Shropshire Core Strategy (2011) which, amongst other things, seek high quality design and the protection and enhancement of the local character of Shropshire's built environment.
12. It would be contrary to Policy MD2 of the Site Allocations and Management of Development Plan (2015) which, amongst other things, requires development to contribute to and respect locally distinctive character and existing amenity value by reflecting characteristic architectural design and details.
13. It would also be contrary to paragraph 127 of the National Planning Policy Framework which, amongst other things, seeks to ensure that developments are visually attractive as result of good architecture.

### **Conclusion**

14. For the reasons set out above the appeal is dismissed.

*B Thandi*

INSPECTOR