

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

Date: Monday, 27 March 2023

Committee: Northern Planning Committee

Date: Tuesday, 4 April 2023

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting. The Agenda is attached
There will be some access to the meeting room for members of the press and public, but this will be limited. If you wish to attend the meeting please email democracy@shropshire.gov.uk to check that a seat will be available for you.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:

<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard

Assistant Director – Legal and Governance

Members of the Committee

Joyce Barrow
Garry Burchett
Geoff Elnor
Ted Clarke
Nat Green
Vince Hunt
Mark Jones (Vice Chairman)
Mike Isherwood
Edward Towers
David Vasmer
Paul Wynn (Chairman)

Substitute Members of the Committee

Gerald Dakin
Steve Davenport
Julian Dean
Nigel Hartin
Pamela Moseley
Alex Wagner

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 7th March 2023, attached, marked 2.

Contact: Emily Marshall on 01743 257717; or
Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5.00 p.m. on Wednesday, 29th March 2023.

4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

5 Land Adjacent To Churncote Island, Welshpool Road/A5 Welshpool Road, Bicton Heath, Shrewsbury, Shropshire (22/02464/FUL) (Pages 5 - 36)

Development of roadside services including - a Petrol Filling Station with ancillary retail (Sui Generis) and a drive-through unit (Class E)

6 Hawthorn Paddock, Welshampton, Ellesmere, Shropshire, SY12 0NP (22/05515/FUL) (Pages 37 - 60)

Change from Temporary to Permanent Gypsy / Traveller Site to include 1 no. Static Caravan, 1 no. Touring Caravan, 1 no. Amenity Block, Storage Shelter, and Gravel Drive part retrospective (as approved on Planning Ref: 21/03044/FUL)

7 Painsbrook Farm, Painsbrook Lane, Hadnall, Shrewsbury, Shropshire (22/03828/EIA) (Pages 61 - 92)

Construction of two free range poultry houses with feed bins and ancillary equipment

8 Solar Farm South West Of Hadley Farm, Wrexham Road, Whitchurch, Shropshire (21/02559/VAR) (Pages 93 - 102)

Variation of condition 10 (cessation and removal) attached to permission ref. 18/00693/VAR to enable an extension to the operational life of the solar farm (amended description)

9 The Coppers, Park Street, Oswestry, Shropshire, SY11 2HF (23/00122/FUL) (Pages 103 - 110)

Erection of a single detached garage

10 Appeals and Appeal Decisions (Pages 111 - 156)

11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 2nd May 2023 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and Date

Northern Planning Committee

4th April 2023

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 7 March 2023

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 4.17 pm

Responsible Officer: Emily Marshall / Shelley Davies

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk Tel:

01743 257717 / 01743 257718

Present

Councillor Paul Wynn (Chairman)

Councillors Joyce Barrow, Garry Burchett, Geoff Elner, Ted Clarke, Nat Green, Vince Hunt, Mark Jones (Vice Chairman), Mike Isherwood, Edward Towers and David Vasmer

98 Apologies for Absence

No apologies for absence were received.

99 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 10th January 2023 be approved as a correct record and signed by the Chairman.

100 Public Question Time

There were no public questions or petitions received.

101 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.

102 The Old Airfield Site, Eaton Upon Tern, Market Drayton, Shropshire, TF9 2BX (22/01866/FUL)

The Principal Planning Officer introduced the application for the construction of a solar farm with all associated infrastructure and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Mrs Frances Biggin on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Keith Newby on behalf of Stoke upon Tern Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Nick Williams Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate, Members acknowledged the concerns raised by the local residents and parish council. However, they considered that many of the concerns raised had been addressed through conditions. The Committee considered the scheme would blend into the landscape and stressed the importance of developing low carbon energy sources. Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposals.

RESOLVED:

That in accordance with the officer recommendation, planning permission be granted subject to the conditions set out in Appendix 1 of the officer report.

**103 Meadowland, Sleap, Harmer Hill, Shrewsbury, Shropshire, SY4 3HE
(22/02001/EIA)**

The Senior Planning Officer introduced the application for the erection of three additional poultry units with associated air scrubber units, control rooms, feed blending rooms, feed bins, hardstanding, dirty water tanks and a drainage attenuation pond, together with retrofitting an air scrubber unit to an existing poultry shed. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Having considered the submitted plans and listened to the comments made by all of the speakers, Member's unanimously expressed their support for the proposal.

RESOLVED:

That in accordance with the officer recommendation, planning permission be granted subject to the conditions set out in Appendix 1 of the officer report.

**104 Victoria Garage Scotland Street Ellesmere Shropshire SY12 0DG
(22/05178/FUL)**

The Senior Planning Officer introduced the application for the demolition of existing garage building, re-aligned access onto Scotland Street and erection of two terraces of 3No dwellings and 2No semi-detached dwellings with associated parking and garden areas and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring

properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

On behalf of Ellesmere Town Council, the Council's Solicitor read out a statement in objection to the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Geoff Elner as local ward councillor, made a statement and then left the table, taking no part in the debate and did not vote on this item.

On behalf of Mr Nigel Thorns, the agent for the applicant, the Council's Solicitor read out a statement in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Area Planning Manager responded to some of the comments raised by the local ward councillor, confirming that the site was not at risk of flooding, the site was situated within a predominately residential area and use as a business could potentially generate more traffic than if the land was used for housing.

During the ensuing debate, Members of the Committee agreed that the site visit had been useful, although some concern was expressed in relation to road safety, Members overwhelmingly felt that the entrance to the site would be an improvement to road safety, the proposed development was of low density and in a sustainable location. Therefore, having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the proposals.

RESOLVED:

That in accordance with the officer recommendation, planning permission be granted subject to the conditions set out in Appendix 1 of the officer report.

105 17 Honeysuckle Row, Shrewsbury, Shropshire, SY3 7TW (22/05603/FUL)

The Area Planning Manager introduced the application for the erection of new detached dwelling following demolition of existing garages and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Tony Parsons, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposals.

RESOLVED:

That in accordance with the officer recommendation, planning permission be granted subject to the conditions set out in Appendix 1 of the officer report.

106 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the Northern area be noted.

107 Exclusion of Public and Press

RESOLVED

That, in accordance with the provisions of Schedule 12A of the Local Government Act 1972 and Paragraph 10.4 [3] of the Council’s Access to Information Rules, the public and press be excluded from the meeting during consideration of the following items.

108 Planning Enforcement Quarterly Report

RESOLVED:

That members note the progress of planning enforcement case investigations and the exercise of delegated powers in respect of decisions in accordance with the Council’s enforcement protocol.

109 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday, 4th April 2023, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:



Committee and date
 Northern Planning Committee
4th April 2023

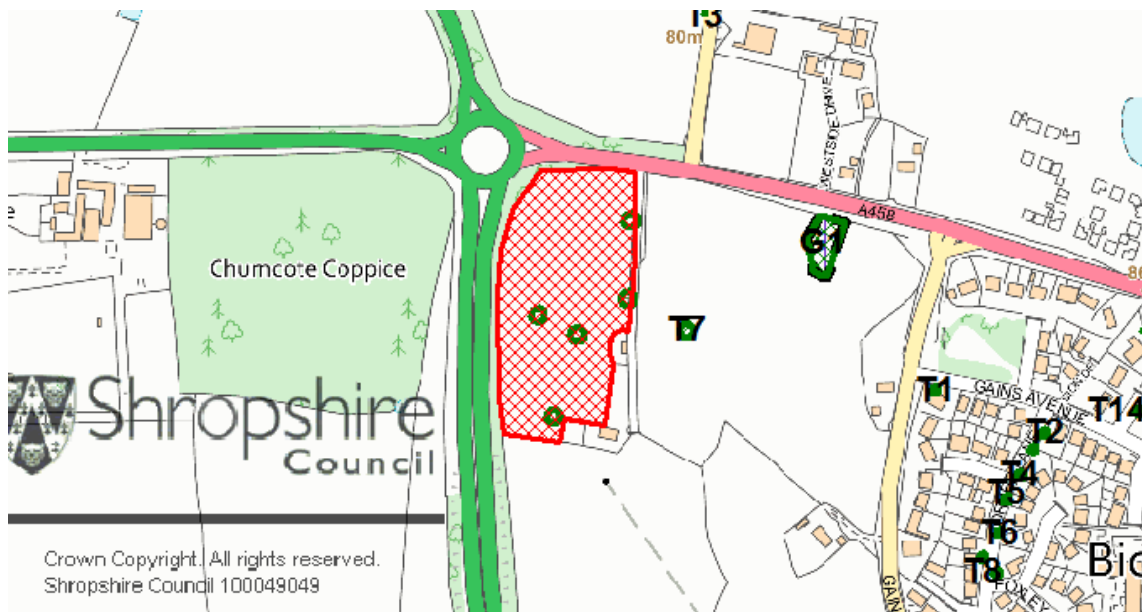
Development Management Report

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

Summary of Application

Application Number: 22/02464/FUL	Parish:	Bicton
Proposal: Development of roadside services including - a Petrol Filling Station with ancillary retail (Sui Generis) and a drive-through unit (Class E)		
Site Address: Land Adjacent To Churncote Island, Welshpool Road/A5 Welshpool Road Bicton Heath Shrewsbury Shropshire		
Applicant: Monte Blackburn Ltd		
Case Officer: Mike Davies	email: mike.daves.planning@shropshire.gov.uk	

Grid Ref: 344827 - 313402



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Recommendation:- Grant Permission subject to the conditions as set out in Appendix 1 and the signing of a Section 106 agreement to ensure a financial contribution towards the North West Relief Road in accordance with detail as set out in Section 6.10 of the report copied in below.

REPORT

1.0 THE PROPOSAL

- 1.1 This is a full application for the erection of a mixed-use development for the erection of a roadside services consisting of a Petrol Filling Station and shop with a separate drive-through coffee shop.
- 1.2 Outline planning permission for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure was granted under 14/00246/OUT.
- 1.3 Two previous applications for a mixed-use development which included outline consent for offices and one for 4 starter units have been refused over the last couple of years or so, due to concerns in relation to the remove of veteran trees from the site, impact on residential amenity and non-compliance with the SUE West Masterplan.
- 1.4 The new submission seeks to address the issues raised by previous refusals through changes to the site layout and a much-reduced scheme which now only covers the northern part of the site as opposed to the full site which the previous iterations of the proposals included. The revised proposals contain no details of how the southern portion of the site will be accessed or developed in the future or indeed if it will be. The southern element still remains an employment allocation in the development plan but accessing it has proved challenging with the need to retain the veteran trees on the site amongst other issues.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is part of the Shrewsbury SUE West allocation. It is situated to the east of the A5 and south of Welshpool Road. It sits immediately to the south-east of the roundabout at Churncote.
- 2.2 The application site extends to 1 hectare as it only covers the northern

part of the site allocation E1 in the SUE West Masterplan and currently comprises agricultural grazing land. The immediate area predominantly comprises a mix of strategic road networks (the A5 runs along the site's western boundary), areas of open pasture fields.

- 2.3 The site forms part of the Shrewsbury West Sustainable Urban Extension, (SWSUE) and specifically falls within an area designated for a mix of commercial and employment uses.
- 2.4 The site is located adjacent to the A5, which is a major routeway that runs from London to Holyhead, via Shrewsbury. Shrewsbury town centre lies approximately 5.2km to the east of the site.
- 2.5 The site is not within an area identified by the Environment Agency's flood risk map as being subject to flooding nor is it identified as being located within a mineral safeguarding area. The site does not contain any listed buildings, nor does it lie within a designated Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the application along with the Local Member. The officer recommendation differs from the views of the Parish Council and Local Member and these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Team Manager (Planning) in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **Bicton Parish Council** - objects to this proposal for the following reasons;
- 1, It is not substantially different from the previous two applications. One of which was withdrawn the other refused.
 - 2, The access from the Welshpool Road will cause congestion and danger. Traffic entering the site, at busy times will back up on to Churncote Island. If the North West Relief Road is built and the island is made a five leg then this will be a nightmare. There will also be extra traffic from the Shrewsbury West Sustainable Urban Extension and if a lorry needs to turn in to the site across all of this traffic it is difficult to see how this will not cause mayhem.
 - 3, At present, at busy times, traffic backs up towards Bicton Heath. An access to this site so close to the island will make safe entering to this site almost impossible.
 - 4, It is contrary to the agreed development principles, of Shropshire

Council and Bicton Parish Council, for this site. The agreement was for small scale business development which would create local employment with minimum of traffic flow.

5, The issue with the high-water table, which Severn Trent objected to, remains the same as before.

- 4.1.2 **Highways England** - Based on our independent assessment, we note that the likely trip generation from the revised development proposal would result in lesser number of vehicular trips as compared against the previous proposal. As such, the applicant has not undertaken any junction capacity re-assessment in the Technical Note (TN dated 19 August 2021) provided and we consider this to be acceptable.

In line with the above, we have no concerns to raise, and the conditional response previously issued by National Highways remains the same

- 4.1.3 **SC Highways** - Both National Highways (NH) and Shropshire Council Highways raised no objection to the previous application scheme and access details submitted and indeed planning conditions were imposed by both in the event that planning permission were granted. The previous application was of course subsequently refused on grounds, which did not include any highway related reasons.

The current application significantly reduces the scale of the development to simply the provision of a PFS with shop and Coffee Shop Drive-thru. The application is submitted with a Technical Note but makes reference to the Transport Assessment and access details that were previously submitted as part of application reference 21/04495/FUL which was refused. Those access arrangements were the subject of a Road Safety Audit and aligned with the current NWRR scheme of works proposed to be implemented along Welshpool Road.

Whilst from a highway perspective it is acknowledged that the proposed scheme has been reduced in scale but includes the access proposed previously supported, it is not considered appropriate to impose conditions upon the current application based upon details that were submitted as part of the previous application, but not included with the current application. Those access details previously supported by Shropshire Council Highways and NH therefore should be included within the application submission. I would be obliged therefore if you would request that the access details are submitted and I will be in a position to recommend the imposition of highway conditions as previously was the case.

- 4.1.4 **County Arborist** - No objection to the proposed development subject to the impositions of tree protection conditions.

There are a number of significant trees on this site, a number protected by a Tree Preservation Order and registered as veteran or notable trees. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified six individual trees, two groups of trees and two hedgerows which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree with the categorisations for H1, H2 T4, G8 and G10 but consider that the remaining trees T3, T7 – T7 & T9 are substantial elements of the landscape and are veteran or future veteran notable trees and should be category A2,3.

- 4.1.5 **Environment Agency** - Have no objection to the proposed development and would offer the following comments for consideration at this time.

This site is located above a Principal Aquifer, Source Protection Zone (SPZ3), WFD groundwater body, WFD drinking water protected area and is within 225m of a surface water course. The site is considered to be sensitive, and the proposed filling station and underground storage could present potential pollutant/contaminant linkages to controlled waters.

We have reviewed the applicant's Fuel Storage Feasibility Assessment /qualitative risk assessment and comment from a Protection of Controlled Waters perspective. You should consult your Regulatory Services team in relation to Human Health matters.

It is noted that the Fuel Storage Feasibility Assessment issue 3 dated August 2021 was previously submitted with application 21/04495/FUL and commented upon by us at that time. To ensure consistency our comments reflect those previously issued.

Position Statement D2 – Underground Storage (and associated pipework): We would have no objection to above ground tanks. The facility must comply with the Oil Storage Regulations. Refer to our standard pollution control comments below. Where underground storage is proposed, such as in this instance, we recommend that the applicant mitigates the risks by changing to above ground storage.

However, we will not object to underground storage on principal and secondary aquifers outside SPZ1 if there is evidence of overriding

reasons why:

- (a) the activity cannot take place on unproductive strata, and
- (b) the storage must be underground (for example public safety), in which case we expect the risks to be appropriately mitigated, including partially above ground tanks.

The applicant has provided confirmation of the above in the submitted feasibility assessment. We acknowledge there is a balance to be struck between consideration of comments by your Petroleum Officer.

Position Statement D3 – Sub Water Table Storage: For all storage of pollutants underground (hazardous substances and non-hazardous pollutants), operators are expected to adopt appropriate engineering standards and have effective management systems in place. These should consider the nature and volume of the materials stored and the sensitivity of groundwater, including the location with respect to SPZs.

We will normally object to any redevelopment scheme involving retention of sub water table storage of hazardous substances unless it can be demonstrated that risks to groundwater can be adequately mitigated.

We note the applicant has considered our objections raised under application 20/03570/FUL and undertaken an area specific, qualitative risk assessment. Having reviewed the submitted information we would accept, based on the BGS map and the borehole logs presented, that the site is situated on cohesive Glacial Till, to a proven depth of 13.8mbgl in the northwest. This will provide significant natural protection to the underlying Principal aquifer. Moreover groundwater, where encountered, only seems to be perched and discontinuous / pocketed as a result of the low permeability of this stratum. We also note the intention to install high spec double skinned tanks with interstitial monitoring and alarms, continuous wetstock reconciliation. Moreover, with the Blue Book ruling out the bunding of above-ground petrol tanks, any such storage in case of losses would have to be accommodated within the site's drainage system, putting enormous risk on the surface water environment locally instead.

It should be noted that in accordance with Government Policy detailed in the latest 2021 National Planning Policy Framework (paragraph 184), 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Furthermore, as per

NPPF paragraphs 174 and 183 respectively, '...development should, wherever possible, help to improve local environmental conditions such as air and water quality...' and '... after remediation, as a minimum, land

should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990...'. Therefore, should any significant contamination not assessed by virtue of this project subsequently become apparent responsibility remains with the developer and/or landowner.

Pollution control: All areas within the curtilage of a filling station should be positively drained on an impervious surface. Any joint in the surface must be adequately sealed and those sealants must be resistant to attack from petrol and oil products.

Surface water drainage from all areas, except uncontaminated roof water, must discharge through a full retention oil / petrol separator. It must be designed to receive flows from storms of 50mm / hour intensity from the connected area, with minimum 6-minute retention. The capacity of the separator should be adequate to contain at least the maximum contents of a compartment of a road tanker likely to deliver petrol at the filling station. Gullies draining to the separator should be of the trapped type to prevent the spread of fire. Oil separators require regular maintenance to ensure they remain effective.

Routine inspections should be undertaken at least every six months and a log maintained of inspection date, depth of oil and any cleaning that is undertaken. Access to the separator should be kept clear and not used for storage.

A separator will not work properly for dissolved (soluble) oils or if detergents or degreasers are present. Such discharges should be drained to the foul sewer.

Other effluents - Vehicle wash waters should not be discharged to surface water drains, watercourses or soakaways, but may be discharged to the foul sewer, subject to the consent of the local sewerage undertaker. In the absence of a suitable foul sewer, such effluents should be contained in a sealed storage vessel and either recirculated or disposed of off-site. A dedicated area, graded to ensure wash waters are directed to the effluent collection point, should be provided.

Forecourts that drain to either foul or combined sewers which discharge to a treatment plant, degreasing or steam cleaning of the forecourt shall not take place unless:

- i) Any liquid is soaked up using absorbent material which is suitably disposed of off-site at an appropriate waste facility. Sealing of gullies will be necessary during these operations to prevent liquid or absorbent entering the drainage system, or
- ii) A closure valve is fitted at the oil separator outlet, which is closed during the cleaning operation and all accumulated washings removed for

suitable disposal off-site. An alarm should be installed to indicate that the closure valve is in the 'shut' position.

Fuel Storage - Where pollutants are stored underground we would expect operators to adopt appropriate engineering standards. For petrol stations, systems should meet the specifications within the 'Blue Book' (APEA, 2011) as a minimum requirement with monitoring systems.

- 4.1.6 **Local Lead Flood Authority** - 1. Reference should be made to Shropshire Councils SuDS Handbook which can be found on the website at <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>
Appendix A1 - Surface Water Drainage Proforma for Major Developments must be completed and together with associated drainage details, be submitted for approval.
2. Shropshire Council will generally not accept a pumped solution due to the obvious risks of flooding as a result of pump failure. It is assumed that the drainage systems will not be offered for adoption, but in order to reduce flood risk, Shropshire Council would require the safeguards as stated in the guidance (SewerSector Guidance Design and Construction for foul and surface water sewers Appendix C paragraph D5.5). This states that additional attenuation is required for pumped systems.
3. No further comment can be made due to the lack of levels and drainage design and a pre-commencement condition requiring the submission of further details to ensure satisfactory drainage of the site and to avoid flooding is recommended.
- 4.1.7 **Regulatory Services** - Should permission be granted then the construction of the petrol site must be in accordance with the 4th Edition of the Design, Construction, Modification, Maintenance and Decommissioning of Filling Stations (The Blue Book) and it is requested that plans should be submitted to the Petroleum Enforcement Authority at least 28 days prior to commencement of any works, in order that any queries can be clarified and ultimately to ensure that a Petrol Certificate can be issued.

Previous comments in relation to the safety of above ground and below ground tanks detailed in the appendix of the Fuel Feasibility Report still stand.

However it is noted that the plans submitted do not identify the proposed tank location on the site and as such no comments can be made on any possible issues relating to the tanker access and egress routes, the location of the tanker stand and the tankers exit in case of emergency, there may be safety issues caused by traffic use/conflicts in the HGV area or public utilising the site during fuel tanker deliveries and ensuring

the tanker escape route is being maintained. It is further noted that the proposed petrol forecourt layout plan in the aforementioned study is a different layout to that detailed on the OS map design submitted.

- 4.1.8 **County Archaeologist** - Currently the Shropshire Historic Environment Record (HER) contains no records of designated heritage assets or known non-designated heritage assets with archaeological interest within the boundary of the proposed development site. However, a Desk Based Heritage Assessment was prepared by RPS Group as part of a previous outline application (14/00246/OUT) that included the proposed development site. This concluded that in overall terms there is low-medium potential for archaeological remains to be present and we concur with this assessment.
- 4.1.9 **County Ecologist** - Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.
- 4.1.10 **Planning Policy** – There is a recognition that this proposal raises several planning policies issues in relation to the delivery of the SUE West Masterplan. Clearly, there are both positive as well as negative connotations arising from the proposals. The ability to deliver the business park envisaged in the Masterplan has been severely impacted by the pandemic and the market appetite to develop speculative office accommodation is non-existent at the present time with little prospect of any confidence returning anytime soon. The policy context of the application is therefore discussed in greater detail within paragraph 6.1 The Principle of Development of this report.
- 4.1.11 **CPRE Shrewsbury District** – Objects to the proposals on the following grounds:
- Archaeology - since this is a known site of potential archaeological interest, the land should remain undisturbed.
 - Removing ancient hedgerows would endanger wildlife corridors. CPRE Shropshire is carrying out hedgerow repair and replacement to sustain and encourage the wildlife in our county.
 - There is no strong case for yet another petrol station and associated retail businesses.
 - The UK is moving away from petrol/diesel use.
 - How would the proposed staff access the site - by car? Shropshire Council should be promoting the use of buses, cycles and pedestrianisation for working people to travel to and from their place of employment.
 - There is no proper footpath planned on either side of the road alongside the proposed development.
 - As in the case of the approved Meole Brace development and the new

Aldi store at Battlefield, this proposed development again is so close to a major roundabout on the A5 road, which links south and west Wales, that serious road accidents could occur.

- There is also the issue of the planned drainage system being inadequate which, in turn, could cause flooding and pollution of the water table.

4.0 Public Comments

4.1 18 objections to the proposals have been received from members of the public. The reasons for objecting can be summarised as followed.

- Traffic congestion will be exacerbated further by development
- Highway Safety concerns
- Far too many road junctions close to the site
- Increased Air and Noise Pollution
- Concern at pollution of water table and aquifer
- Would change the semi-rural character of the town approaching from Welshpool
- Existing trees have been acknowledged as exceptional and siting development next to them will adversely impact them with additional air and water pollution
- Existing wildlife which uses the site will be displaced and adversely affected
- There is a climate change emergency covering everything in tarmac and concrete will only make this worse
- Residential amenity concerns arising from 24/7 use
- Increased littering
- Will contribute to unhealthy lifestyles and eating habits
- Will encourage more car journeys
- No impact assessment on existing local businesses
- No benefits to local residents
- Design does not meet the high-quality expectations expressed in SUE West Masterplan for gateway employment site
- Roadside services were not envisaged on this site in SUE West Masterplan therefore proper mitigation is required to ensure future adjoining residents amenities are protected.
- Proposals contrary to SUE West Masterplan and policies CS6, MD2 and MD12 of the Development Plan and the paras 8 and 170 of the NPPF.
- Under the new Environment Act are required to demonstrate Biodiversity Net Gain and therefore the whole site should be set aside for future generations to enjoy wildlife
- Loss of 40m of hedgerow damaging to biodiversity and irreplaceable irrespective of compensatory planting
- No detail about what will happen to the southern portion of the site
- Site of archaeological interest

- Whilst the application is an improvement on previous proposals it does not go far enough

A number of non-material planning objections were also raised which are summarised below, however these are not considerations in the decision making.

- The applicant will have a disproportionate share of the fuel market in Shrewsbury
- Prices are high in comparison to others
- Already two existing PFS nearby which will suffer
- Poor record of employee satisfaction
- A more suitable provider should be found to run the PFS.
- No need for further PFS
- Development should be put on hold till new houses built on adjoining site
- Site should be used for sports pitches and outdoor recreation

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Highways and Transportation
- Residential Amenity
- Employment
- Ecology
- Drainage
- Archaeology
- NWRR Contribution

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The relevant Development Plan Policies are provided within the Shropshire Core Strategy (2011); Site Allocations and Management of Development Plan (2015); Sustainable Design SPD (July 2011); Developers Contributions SPD (July 2011) and National Planning Policy Framework (NPPF) (2021). Those of relevance to the proposal are considered below as part of the appraisal.

6.1.2 A key objective of both national and local planning policy is to concentrate new development in locations which promote economic, social and environmental sustainability. Specifically, the Council's Core Strategy Policies CS1 and CS2 set out the spatial policies for Shrewsbury. This site forms part of the Shrewsbury West Sustainable Urban Extension (SUE West) and is an allocated employment site within the SAMDev Plan. Policy S16.1b.

- 6.1.3 Development to deliver comprehensively planned, integrated and phased development of the SUE having regard to the SUE Land Use Plan (Figure S16.1.2) and adopted masterplan. Development to include the provision of a new Oxon Link Road and facilitation of the improvement of the A5 Churncote Island, sustainable transport measures, an enhanced local centre at Bicton Heath, and major landscape buffers and public open space, linked with additional employment land extending Oxon Business Park and on the gateway land by the Churncote Island, and land for additional health/care development/expansion of existing businesses off Clayton Way. Some land of Clayton Way is within groundwater Source Protection Zones (SPZ) 1 and 2 so development there must be carefully designed to take account of this, in consultation with the Environment Agency. A site-specific flood risk assessment is required for this site.

The SUE West Masterplan vision states "Shrewsbury West will create a distinctive, high quality place which maintains and enhances the qualities and character of Shrewsbury, linking with and consolidating existing development and facilities and providing a new gateway commercial area off the A5 Churncote Island. New exciting and distinctive places to live, work and play will be created which do not copy older neighbourhoods and instead embrace contemporary approaches to high quality design."

- 6.1.4 The application site is part of the western area of the Shrewsbury West Sustainable Urban Extension (SUE West). SUE West is allocated in the SAMDev Plan (2015) for mixed use development and considered suitable for housing, retail in a local centre, office and business uses, light and general industry, health/care facilities, hotel and pub/restaurant. This site forms part of the Churncote Business Area in the Masterplan (Site E1). The masterplan envisages Business and office space with potential for a hotel use and pub/restaurant on this site with a high-quality design appropriate to gateway location.
- 6.1.5 Policy CS1 seeks to ensure Shropshire will flourish by accommodating investment and new development to meet Shropshire's needs and to make its settlements more sustainable. Policy CS1 promotes Shrewsbury as a sub-regional centre in the West Midlands and the principal growth point in the County. This application reflects these strategic objectives by recognising that Shrewsbury is the preferred location for significant development and the main centre for employment and services.
- 6.1.6 Policy CS2 promotes the strategic role of Shrewsbury through the provision of 9-12 hectares of employment land at SUE West for good quality, balanced and sustainable employment growth, that respects the

natural, built and historic environment, to improve prosperity in Shrewsbury and Shropshire. However, the proposed development is not considered to make a significant contribution to the economic growth objectives in Policy CS2 and so, requires further detailed consideration in relation to Policies S16.1 and MD4.

- 6.1.7 Policy CS13 sets out the strategy for economic development in the County. This seeks to address the key issues and challenges of the Shropshire economy to further develop its strengths and opportunities. It provides a positive framework for sustainable economic development that seeks to promote the growth of existing businesses, foster new enterprise and to help make communities more prosperous and resilient. In relation to Policy CS13, the proposed development would contribute to the role of Shrewsbury as the principal growth point of the county and the main business, service and visitor centre for its communities and visitor economy.
- 6.1.8 Policy CS14 further expresses the positive, planning policy framework in Policy CS13 to support sustainable economic development. Furthermore, Policy CS14 seeks to ensure the portfolio of employment land and premises in the Local Plan will be sufficient to deliver other significant land uses that meet the needs of businesses and communities in the county. This includes land uses that help to create or maintain sustainable communities as indicated by Policies CS6 and CS8. These are material considerations that should be taken into account in assessing 22/02464/FUL in relation to Policies MD1(1)&(2), S16.1 and MD4(2)(ii).
- 6.1.9 Policy CS6 states that development likely to generate significant traffic will be located in accessible locations. This will also help promote active travel and public transport use to contribute to the health and wellbeing of communities. These developments should also be designed to a high quality as safe and accessible buildings with appropriate landscaping and car parking provision and protect the natural, built and historic environment. These matters are addressed in detail in Policy MD2 that seeks to ensure development is sustainably designed. It is considered that the revised scheme has sought to address these policy objectives, by retaining the veteran trees, including an acoustic fence and moving development away from existing residential property. These are material considerations to be taken into account in determining the proposals.
- 6.1.10 Policy CS8 seeks to ensure that development will preserve and improve access to facilities and services wherever possible. In particular, Policy CS8 seeks to positively encourage the provision of infrastructure and additional facilities in a timely manner to meet identified needs in a locality. It is also recognised that these developments should manage

any impacts on recognised environmental assets. These matters are addressed in detail in Policy MD8 that seeks to ensure the sustainable provision of infrastructure. It is considered that the revised scheme has addressed these policy objectives, and these are material considerations to be taken into account in determining this application.

- 6.1.11 In relation to Policy CS8, the revised scheme may be regarded as an appropriate and timely provision of strategic and local roadside services to meet anticipated increases in demand from the A5 Shrewsbury by-pass, the potential delivery of the North West Relief Road connection with Churncote Island and the growth of the residential community on the SUE West urban extension.
- 6.1.12 This is consistent with the SUE West Masterplan Vision to ensure the urban extension delivers a distinctive, high-quality place that enhances the services, character and community of Shrewsbury. The early provision of services at Churncote South for SUE West and the NWRP might have a short-term impact on existing services within the west of Shrewsbury and in villages close to Shrewsbury. However, strategic and local demands for the proposed services at Churncote South are expected to significantly increase with the ongoing development of SUE West and the potential provision of the A53 North West Relief Road connection with the A5 by-pass which is the subject of a current planning application.
- 6.1.13 The revised scheme has a reduced development footprint that makes a significant contribution to the objectives of Policies CS17 and CS6 which seek to protect the natural environment. The revised scheme recognises the constraints on the application site due to its location in the landscape on the edge of Shrewsbury and the presence of significant and veteran trees on the site, now protected by a TPO. It is recognised that the revised scheme has relocated development away from the area of the TPO to safeguard the root protection zones of these important trees.
- 6.1.13 Policy MD12(2) recognises that the protection of our natural assets contributes to the quality and sustainability of the Shropshire environment. Policy MD12 also recognises that the benefits of maintaining a healthy, sustainable environment also contributes to the promotion of a thriving economy, in paragraph 3.107. Policy MD12(3) encourages development that conserves, enhances or restores natural assets and to maintain local distinctiveness, biodiversity and to contribute to the character of development, settlements and their settings.
- 6.1.14 The proposals seek to contribute to the sustainability of the environmental network around the west of Shrewsbury by protecting the veteran trees. The proposed layout of the development contributes to

the local landscape and may facilitate the movement of wildlife between the townscape and rural landscape through the retention of these veteran trees which provide irreplaceable habitat. These objectives of the revised scheme are consistent with the design principles of the SUE West Masterplan.

- 6.1.15 Policy S16.1(5) requires the type of development to support the principles of the SUE Masterplan. It has been recognised under Policy CS1, that the revised scheme supports Shrewsbury's role as the preferred location for significant development and the main centre for employment and services.
- 6.1.16 In Policy CS8, the revised scheme would support the SUE West Masterplan Vision by ensuring SUE West delivers a distinctive, high-quality place that enhances the services, character and community of Shrewsbury. Further, the revised scheme might be regarded as an appropriate and timely provision of strategic and local roadside services to the SUE West and the potential A53 North West Relief Road and Oxon Link connection with Churncote Island.
- 6.1.17 Policy S16.1 provides no further significant support to the recognition in Policies CS1 of its strategic location in Shrewsbury and Policies CS13, CS14 and CS8 of its contribution to the role of Shrewsbury as the main urban centre, the principal growth point and main business, service and visitor centre for Shropshire.
- 6.1.18 Policy S16.1(5) requires the proposed development to deliver the type of employment development required in Policy CS2 and the SUE Land Use Plan Figure S16.1.2. It has been recognised that roadside service uses would not make a significant contribution to these economic growth objectives.
- 6.1.19 The proposed roadside service uses would prevent the delivery of the preferred type of employment development for the new gateway commercial area on employment allocation ELR064 Churncote South. The SUE West Masterplan provides detailed guidance on the requirement for Churncote South to provide a new gateway business area with business units and office space with an exclusive access off the A5. This requirement for a gateway business park is a significant issue for the suitability of the revised scheme.
- 6.1.20 Policy MD4 establishes the policy tests for employment development arising from the positive planning framework to support sustainable employment development in Policies CS13 and CS14. The revised scheme in 22/02464/FUL is located on allocated employment site ELR064 in Shrewsbury and considered to be partially consistent with MD4(1). In particular, the proposals offer a scheme within a sustainable

location in our county in the context of Policies CS1 and CS2 which outline the strategic approach of the Local Plan Policies CS13, CS14 and CS8 further help to strengthen the role of Shrewsbury as the main centre for employment and services, support significant new development and infrastructure and maintain sustainable communities.

- 6.1.21 However, the application still conflicts with Policy MD4(1) as the revised scheme is not for business, industrial or related sui generis uses but provides retail services to visiting members of the public. These circumstances are further evidenced by the conflict between the proposed development and the detailed land use requirements of Policy S16.1 and the SUE West Masterplan.
- 6.1.22 The flexibility provided by Policy MD4(2), in relation to Core Strategy Policies CS13 and CS14, does recognise that proposals for alternative land uses on allocated employment sites may be considered. Policy MD4(2) recognises these alternative proposals where (i) it can be demonstrated that there are no other suitable development sites, (ii) the proposed development may provide significant employment opportunities or significant benefits to the sustainability of the community and the (iii) proposed development will not adversely affect the range and choice of available employment sites should the proposed development be permitted.
- 6.1.23 In relation to MD4(2)(i), the applicant does not appear to address the matter of alternative locations for the proposed roadside services. The application site at Churncote South would still appear to be an appropriate location for such uses, particularly with the intended provision of the A53 North West Relief Road and Oxon Link connection with the Shrewsbury A5 by-pass at Churncote Island.
- 6.1.24 In relation to MD4(2)(ii), the benefits of these proposals for the sustainability of the community of Shrewsbury have been addressed, with a specific focus on the retention of the veteran trees on site, and the proposed integration of the site into the wider SUE West.
- 6.1.25 In relation to MD4(2)(iii), the proposals for SUE West in Policies CS2, S16.1 and supported by the SUE West Masterplan set out an overall requirement for the development of 9 – 12 hectares of employment development. This anticipates that a minimum of 9 hectares would be developed to satisfy the requirements of Policies CS1 (strategic approach), MD1(1)&(2) (scale and distribution of development) and MD4 (managing employment development). It is considered that 9 hectares of employment development may still be provided on the remaining employment land at Churncote North (excluding the application site) and on employment land in the east of the SUE around the existing Oxon Business Park. It should be noted that Oxon Business Park already has

an established reputation for good quality employment floorspace and a proven record of business investment. The revised scheme with around 1 hectare of built development may be considered as part of the residual 3 hectares (for the full 12 hectares required) to broaden the range of land uses on SUE West.

- 6.1.26 The alternative land uses on the revised scheme might reasonably be considered to support the community of the SUE West and the other communities and visitors in Shrewsbury. The revised scheme also offers 'service' uses to support the strategic road network through Shropshire. This is recognised in the SUE Masterplan which regards Churncote Island as suitable for a range of business and commercial uses and appropriate service uses at the junction with the A5 bypass.
- 6.1.27 Turning to the emerging local plan, Policy SP13 contributes to the economic vision and strategy for Shropshire by providing certainty in the delivery of economic growth and the strategic land supply. SP13 identifies those land uses taken to be 'employment generating uses' following changes to the Use Classes Order in 2020. This change combined some of the Class B uses recognised in Policy MD4 for offices, research and development and light industrial uses along with other land uses into a new class of 'service' uses known as Class E. Whilst the petrol filling station with ancillary retail use is not part of Class E and is considered separately, the coffee shop with drive through facility is a Class E(b) food and drink use. Policy SP13 will regard the coffee shop as an 'ancillary' employment use offering an 'essential' service for the daily needs of other land uses in the locality. This policy change would mitigate to some degree the loss of 4 No. business starter units following the refusal of the larger scheme in 21/04495/FUL.
- 6.1.28 Policy SP14 promotes the strategic road network through Shropshire as a focus for the strategy in the Local Plan. Policy SP14 supports the revised scheme along the Shrewsbury A5 by-pass in addition to Policy CS1. It should be noted that, at this stage of plan preparation, only very limited weight should be attached to these draft policies.
- 6.2 Siting, scale and design of structure
- 6.2.1 The size and scale of this proposal is significantly reduced when compared to the two previous proposals. The latest proposals only cover the northern portion of the site and no longer extend beyond the veteran trees in the centre of the site to the southern part of the allocation. The issue around the retention of the veteran trees as well as amenity impacts on the dwelling on the south-eastern corner of the site have resulted in the applicants scaling their proposals back considerably.
- 6.2.2 The development will now consist of a drive through coffee shop and the

Petrol Filling Station (PFS) with shop, with the southern portion of the site remaining undeveloped at the present time. Assuming the development goes ahead in this form, it is unlikely that the remainder of the allocated site to the south would be developed as gaining access to the remainder of the land from the north in future would be very challenging given the central location of the veteran trees on the site and other constraints. Therefore, the proposals as set out probably offer the optimal development of the site whilst not impacting on the long-term health of the veteran trees and the amenities of the residential property in the south-eastern corner of the southern portion of the site.

6.2.3 Clearly, the development of the southern part of the site is going to be dictated by the ability of a future developer to gain access to it, as the position of the veteran trees in the centre of the site and their root protection zones mean that vehicular access from the north is going to be very difficult to achieve in future. The current application is considered to sit well within the northern part of the site and is considered acceptable in terms of siting, scale and design for a development of this type.

6.3 Visual impact and landscaping

6.3.1 The site is currently a greenfield site situated on the south-eastern corner of the Churncote roundabout with the A5 running down its western boundary and Welshpool Road forming its northern boundary. The site acts as a gateway to the county town and as such the form any future development takes is important in terms of the image it portrays to visitors to the town.

6.3.2 The original proposals envisage the site being cleared despite the presence of veteran trees on the site that were flagged up at pre-application stage as being important and needing to be retained as part of any development of this site.

6.3.3 The new proposals are significantly scaled back and retain the veteran trees on site, which is considered extremely important as these are a finite resource which are irreplaceable. A high-quality landscaping scheme will also be required via condition to mitigate the impacts of the proposals and provide appropriate screening of the site.

6.3.4 The visual impact of the development is considered to be acceptable and with a high-quality landscape scheme it should blend into its surroundings.

6.4 Highways and Transportation

6.4.1 Access to the site will be from the north of the site off Welshpool Road. Concerns have been raised by objectors to the access/egress arrangements, however neither Highways England nor the Highways

Authority have raised objections to the proposals. A right-hand turn lane on Welshpool Road will accommodate visitors to the site approaching from the west and this will ensure the continued free flow of traffic off the Churncote Roundabout heading towards Shrewsbury.

- 6.4.2 The revised internal site layout features a higher level of connectivity between each of the proposed elements of the scheme, for vehicles, cyclists, and pedestrians, to ensure that all users of the site are not prejudiced, with safe and convenient access into each part of the site as necessary, with secure bicycle storage provided across the site. Pedestrians access the site from the northeast, with designated pathways and crossing areas between each of the proposed units to ensure high levels of interconnectivity.
- 6.5 Residential Amenity
- 6.5.1 The development of the northern part of the site as proposed is unlikely to impact the amenities of the residential property located on the southeast corner of the southern portion of the site as the development is much further away than the previous iterations. This has always been a concern in relation to the two previous proposals put forward by the applicant which envisaged the development of the whole site.
- 6.5.2 The revised scheme also incorporates a 2.5m high acoustic fence around the southern and eastern boundaries of the site; this will help to minimise any potential noise issues upon future and existing neighbouring development. This is confirmed within the revised noise assessment, which states that the “potential impact of noise from the proposed development is not predicted to be significant and no additional mitigation is required” following the installation of the acoustic fencing.
- 6.6 Employment
- 6.6.1 The site is allocated for future employment development in the development plan and is included in the SUE West Masterplan. The onset of the coronavirus pandemic saw a shift in the way people work with many companies switching to a home working model. As things return to normality there has been a shift towards a hybrid working model between the home and office. Research suggests that workers are now spending about half as much time in the office as they previously did, and this has seen demand for new office accommodation shrink dramatically.
- 6.6.2 The application states that the proposals will create the equivalent of 21 Full Time jobs on site. The scale and type of jobs the development will create do not necessarily align with the original vision for the site. Clearly, both the quality and quantity of jobs has significantly diminished in relation to the Masterplan vision and this is a concern in relation to these proposals. Equally, there needs to be degree of reality about the

future prospects of this site coming forward as a business park given that the veteran trees on site place a major constraint on the ability to gain access to the southern part of the site from the north.

6.7 Ecology

6.7.1 An ecology report has been submitted in support of the application and the County Ecologist accepts the contents and recommendation.

Appropriate conditions are recommended to be attached to any permission granted to ensure compliance with Development Plan policies MD12 and CS17, as well as the NPPF.

6.7.2 The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework. This proposed development site lies within the Environmental Network. As such, the proposed scheme is considered to assist in 'promoting the conservation, restoration and enhancement of priority habitats and ecological networks' as required by paragraph 174 of the National Planning Policy Framework and provide a net gain in biodiversity which will be secured via condition. At present as long as a net gain can be demonstrated no matter how small this is sufficient to meet current requirements.

6.8 Drainage

6.8.1 A site-specific flood risk assessment has been submitted, and conditions are recommended by the LLFA to mitigate against any impacts of the development. The Environment Agency have no objections to the proposals subject to appropriate mitigation measures being incorporated into the design. The detail design of the site drainage will be secured via conditions.

6.9 Archaeology

6.9.1 The Desk Based Heritage Assessment by RPS Group dated February 2013 continues to provide sufficient information regarding to archaeological interest of the proposed development site in relation to the requirements of Policy MD13 of the Local Plan and Paragraph 194 of the NPPF (July 2021). The County Archaeologist continues to concur with its findings regarding the archaeological potential of the proposed development site.

6.9.2 There is no objection in principle to the proposed development from an historic environment perspective. However, it is advised, in line with Policy MD13 of the Local Plan and Paragraph 205 of the NPPF (July 2021), that a phased programme of archaeological work be made a condition of any planning permission. This would consist of an initial geophysical survey and targeted trial trenching, followed by further

mitigation as appropriate.

6.10 NWRR Financial Contributions

6.10.1 Under outline planning permission 14/00246/OUT, landowners and the Council agreed an apportionment of cost contributions towards the NWRR from each site in the SUE West. The contribution apportioned to Site E1 was £177,000, which was based on this being an employment allocation and on the size of the site.

6.10.2 The proposals which have now come forward envisage a very different type of development on the site. It also needs to be noted that the proposals only cover the northern portion of the site, with the southern part being left undeveloped for the moment. The applicant on purchasing the site would have been aware of the employment allocation and the expected financial contribution that the site was expected to make to the NWRR. The applicant has indicated that they are prepared to make a contribution towards the costs of the NWRR and offered a sum of £80,000 based on traffic modelling they have undertaken. This is considered to be acceptable given the reduced scale of development and will be secured via a planning obligation.

6.11 Environment Information Assessment

6.11.1 The EIA Regs in Schedule 2 identify that Motorway Service Areas over 0.5 hectares may need to undertake an EIA assessment. The development here no longer impacts the veteran trees and only covers around half the site allocation. It is therefore deemed that an EIA assessment is not necessary in this case as impacts are not considered to warrant such an approach.

7.0 CONCLUSION

7.1 The application should be determined with due regard to the adopted development plan policies outlined above, as well as the adopted SUE West Masterplan as a further material consideration. In addition, planning judgement should clearly reflect upon the material considerations for the revised scheme. Of particular consideration in this context is the constraint placed upon the wider delivery of the site through the presence of the veteran trees, and protection of the TPO in the proposal is welcomed.

7.2 The policy considerations including the locational support for the role of Shrewsbury, the timely provision of service infrastructure to support the strategic road network and SUE West community and protection of the environmental network in the west of Shrewsbury would 'on balance' support the suitability of the proposals.

7.3 A determination that this scheme is considered acceptable, would engage the S106 agreement under outline proposal in permission

14/00246/OUT, for this site to contribute £176,867 to support the delivery of the Oxon Link element of the North West Relief Road connecting with the A5 Shrewsbury by-pass.

- 7.4 The current proposals only envisage half of the site allocation being developed under this application and this potentially will result in the southern part of the site which forms part of the employment allocation of the site remaining undeveloped in the future as access to this part of the site will become even more problematic than it has already proven to be from the north.
- 7.5 The landscape in terms of demand for employment sites and in particular office accommodation has shifted significantly as a result of the pandemic and the move towards permanent home or hybrid working arrangements. This site was originally envisaged in the SUE West Masterplan as a business park, but the prospect of this being delivered within the current economic climate and with the changes in working practices highlighted above mean that such a development is unlikely now.
- 7.6 Clearly, the proposals will deliver employment opportunities, however these are not of the calibre originally envisaged when the SUE West Masterplan was drawn up, however the applicant has agreed to make a financial contribution towards the NWRR with this being written into a standalone S.106 agreement.

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.

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS8 - Facilities, Services and Infrastructure Provision

CS9 - Infrastructure Contributions

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS14 - Managed Release of Employment Land

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD4 - Managing Employment Development

MD10B - Impact Assessments for Town and Rural Centres

MD12 - Natural Environment

Settlement: S16 - Shrewsbury

SPD Sustainable Design Part 1

RELEVANT PLANNING HISTORY:

19/05247/DIS Discharge of condition 4 (Full Arboricultural Impact Assessment) 11 (CMS) 13 (Ecology) 17 (Materials) 18 (Drainage Details) 22 (Drainage - Surface Water) 23 (Foundations) attached to planning permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure DISAPP 20th May 2020

20/01667/AMP Non Material Amendment to previously approved (19/05386/DIS) Condition 12 (Construction Environmental Management Plan) to Planning Permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure GRANT 5th May 2020

20/04924/DIS Discharge of condition 10 (Badger Inspection) attached to planning permission 14/00246/OUT DISAPP 7th January 2021

21/00425/DIS Discharge of condition 16 (Contamination) attached to planning permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure DISAPP 1st March 2021

22/02464/FUL Development of roadside services including - a Petrol Filling Station with ancillary retail (Sui Generis) and a drive-through unit (Class E) PDE 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure GRANT 13th September 2019

PREAPP/17/00351 Proposed development of a petrol filling station with ancillary retail store, drive through cafe, hotel and pub/restaurant together with access, parking and landscaping works PREAMD 17th August 2017

PREAPP/19/00374 Erection of new foodstore, employment unit, car parking, access and ancillary landscaping NPW 1st October 2021

19/05247/DIS Discharge of condition 4 (Full Arboricultural Impact Assessment) 11 (CMS) 13 (Ecology) 17 (Materials) 18 (Drainage Details) 22 (Drainage - Surface Water) 23 (Foundations) attached to planning permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure DISAPP 20th May 2020

20/01667/AMP Non Material Amendment to previously approved (19/05386/DIS) Condition 12 (Construction Environmental Management Plan) to Planning Permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure GRANT 5th May 2020

20/03570/FUL Hybrid application for a mixed-use development - FULL consent For formation of roadside services including a petrol filling station, a drive-through restaurant; drive-through coffee shop; creation of new vehicular access (off A458); on-site roads and parking areas; landscaping scheme; and, OUTLINE consent (access for consideration) for the erection of offices (Use Class B1) WDN 3rd June 2021

20/04924/DIS Discharge of condition 10 (Badger Inspection) attached to planning permission 14/00246/OUT DISAPP 7th January 2021

21/00425/DIS Discharge of condition 16 (Contamination) attached to planning permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure DISAPP 1st March 2021

21/04495/FUL Roadside Services development to include Petrol Filling Station with ancillary retail; drive-through coffee shop, drive-through restaurant and the erection of 4 no. Business Starter Units REFUSE 25th March 2022

22/02464/FUL Development of roadside services including - a Petrol Filling Station with ancillary retail (Sui Generis) and a drive-through unit (Class E) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RCGA2LTDG9V00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member Cllr Lezley Picton
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions**

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

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

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

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

3. 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

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

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

5. Prior to the commencement of development on site details of the means of access, including the location, layout, construction and sightlines, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied (which ever is the sooner).

Reason: This detail is required prior to commencement to ensure a satisfactory means of access to the highway.

6. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

7. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

8. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

9. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

10. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

11. No development shall take place until a scheme of foul drainage, and surface 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 (which ever is the sooner).

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

12. Prior to commencement, an Ecological Impact Assessment shall be submitted, together with any required phase 2 surveys. The assessment will i) establish if there have been any changes in the presence and/or abundance of species or habitats on the site and ii) identify any likely new ecological impacts and mitigation requirements that arise as a result. Where update surveys show that conditions on the site have changed (and are not addressed through the originally agreed mitigation scheme) then a revised updated and amended mitigation scheme, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (or commencement of the next phase). Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that development is informed by up-to-date ecological information and that ecological mitigation is appropriate to the state of the site at the time development/phases of development commence.

13. Prior to first occupation / use of the buildings, 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:

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks) and/or house martins (house martin nesting cups).

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

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

14. Prior to the commencement of the construction works for the development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority, in consultation with National Highways. The approved plan shall be adhered to throughout the construction period.

Reason: To ensure that the A5 and A458 trunk roads continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interests of road safety.

15. Prior to the opening of the development, the proposed mitigation works as shown in Drawing no. DTP/3700318/SK101 - Rev F shall be implemented in full. The detailed design works shall be submitted to and approved in writing by the Local Planning authority, in consultation with National Highways.

Reason: To ensure that the A5 and A458 trunk roads continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interests of road safety.

Informatives

1. Operators of petrol filling stations should take appropriate measures to manage their sites to ensure they do not cause an unacceptable risk to groundwater quality. The Environment Agency has powers to take action where groundwater pollution occurs or is likely to occur.

If pollution was to occur, Section 161, Water Resources Act 1991 empowers the Environment Agency to recover all costs reasonably incurred in:

- carrying out works, operations or investigations to prevent pollution of surface waters or groundwater.
 - undertaking remedial action following a pollution of surface waters or groundwater.
- Should the EA be required to undertake such work we would be able to recover these from the company or person responsible.

Where the EA consider that other forms of control or voluntary action do not give sufficient protection to groundwater, we will serve EPR groundwater activity notices to avoid or restrict inputs of pollutants to groundwater including from, for example, underground storage and distribution facilities

2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.

3. By virtue of the Town and Country Planning Act 1990, your attention is drawn to the following statutory provisions and Code of Practice relating to the needs of disabled people: Sections 4, 7 and 8A of the Chronically Sick and Disabled Persons Act 1970, Disability Discrimination Act 1995, BSI Code of Practice BS5810:1979 relating to Access for Disabled to Buildings, and the Building Regulations 1992 Approved Document M. Please ensure that you are taking account of these requirements.

4. 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).

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

5. Nesting birds

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 building[s] and begin nesting, work must cease until the young birds have fledged.]

-



Committee and date
Northern Planning Committee
4 th April 2023

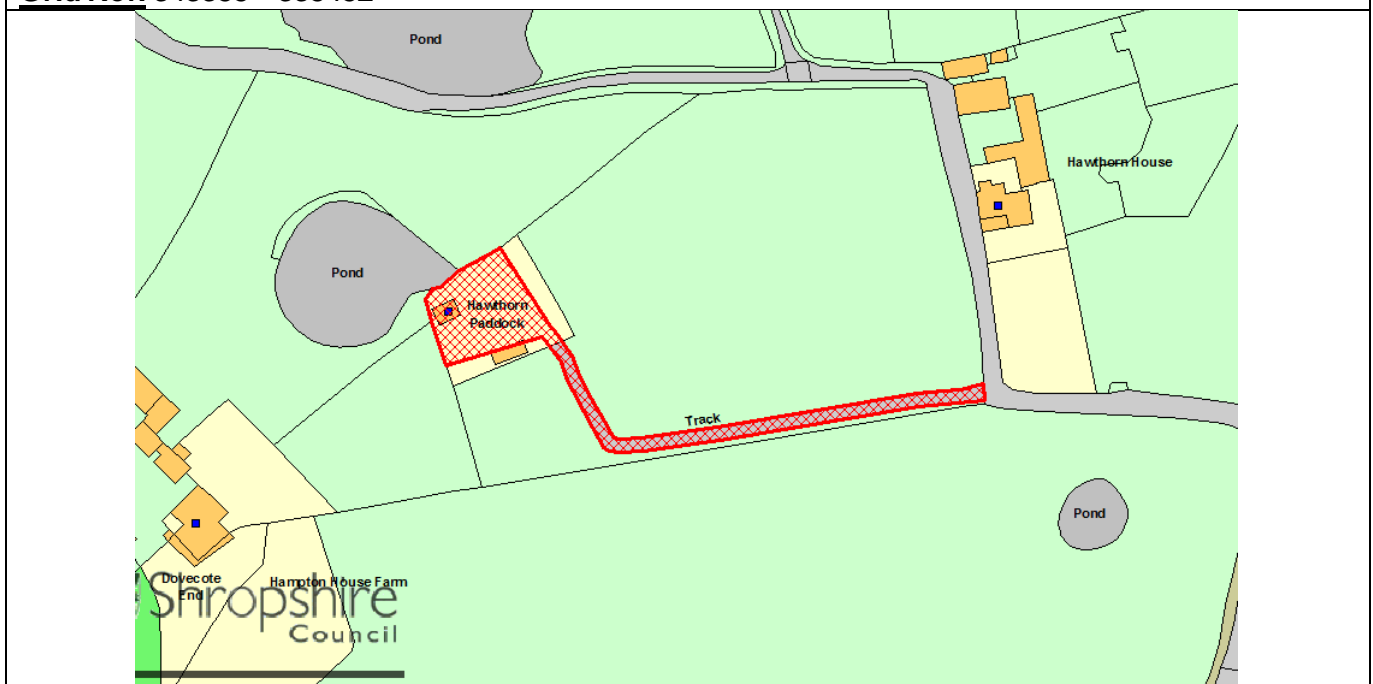
Development Management Report

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

Summary of Application

Application Number: 22/05515/FUL	Parish:	Welshampton And Lyneal
Proposal: Change from Temporary to Permanent Gypsy / Traveller Site to include 1 no. Static Caravan, 1 no. Touring Caravan, 1 no. Amenity Block, Storage Shelter, and Gravel Drive part retrospective (as approved on Planning Ref: 21/03044/FUL)		
Site Address: Hawthorn Paddock Welshampton Ellesmere Shropshire SY12 0NP		
Applicant: Mr And Mrs James Doran		
Case Officer: John Shaw	email: john.shaw@shropshire.gov.uk	

Grid Ref: 343355 - 335452



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission to allow a permanent single pitch gypsy/traveller site which would allow the retention of one static caravan, one touring caravan and the erection of 1x new amenity block along with associated works. An existing shelter which was erected for horses is being used by the family for storage and its use would be regularised as part of this application. Temporary permission for 1 year was granted on the site under application 21/03044/FUL and expired on 23/12/21. An earlier application (20/01361/FUL) for permanent use was refused by the council on 04/09/20.
- 1.2 The information submitted states that the proposed gypsy pitch would only be used for residential purposes and no business use on site is intended; the applicant would continue to use the rest of the land within their ownership for the grazing of horses.
- 1.3 The static caravan would be used for permanent residential accommodation while the touring caravan would enable the family to travel for work. The proposed timber clad amenity block would replace a smaller block permitted as part 21/03044/FUL and provide a dayroom for the family and a space for cooking and washing. The block would be 12m wide, up to 7.2m deep with a ridge height of 3.1m and would be located to the southern side of the site. The static caravan would be moved to the eastern side of the site to allow the siting of the new amenity building. The amended block plan shows proposed hedge and tree planting to the southern and eastern boundaries along with post and rail fencing around the entirety of the pitch.

2.0 SITE LOCATION

- 2.1 The site is in open countryside approximately 300m north of the settlement of Welshampton and 5km/3 miles east of Ellesmere. The nearest residential neighbouring dwellings are the Grade II listed Hampton House Farm 80m to the west and Hawthorn House 120m to the east.
- 2.2 The wider site is comprised of a large paddock with an access gate, track and hardstanding set on rising land within an undulating landscape. The site is accessed via a single lane unclassified road and is also a public footpath; the road connects to Copes Lane to the south-east which extends to the A495. The existing static caravan has walls formed of white aluminium panels, a shallow pitched roof and white upvc windows and doors. To the north-east of the application site is a timber shelter. The application site has 1.8m/2m timber close boarded fencing to all sides; to the northern and western boundaries there is a line of hedging with a small number of well-established trees.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The application has been referred to the committee for determination as the Planning Officer is recommending approval, contrary to the opinion of the Local Member and the Parish council who both object to the scheme and have provided material reasons for this objection. The views of the Parish Council cannot reasonably be overcome by negotiation or conditions and the Team Manager (Planning) in consultation with the committee chairman/vice chairman and the Local Member agrees that the

Parish/Town Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS (full details of the responses can be viewed online)

4.1 - Consultee Comments

4.1.1 Welshampton Parish Council – Objection

- Unacceptable in principle due to open countryside location which would conflict with CS5, CS12 and the PPTS
- Unsustainable location
- Harmful impact on character and appearance of area as it would be visually intrusive and incongruous given its setting in open countryside and harmful to the setting.
- Harm to residential amenity due to noise from site
- The proposal does not in any way sympathetically enhance the heritage asset Hampton House and will clearly have an adverse effect on the significance of the non-designated asset Hawthorn House, including its setting.
- Access to the site is via a substandard right of way which is a sub-standard single track where vehicles could have conflict with pedestrians
- Insufficient information relating to foul drainage from site
- Lack of evidence of insufficient supply of existing suitable sites and applicant's status
- The residents do not have a strong local connection to the area

- Planning Officer Comment: Concerns that approval of the application could set a precedent is not a material planning consideration and carries no weight in the determination of the application. Each proposal is assessed on its own merits.

4.1.2 SC SUDS – No Objection Informatives recommended.

4.1.3 SC Conservation – Comments provided *'Please refer to previous comments made on application 21/03044/FUL. We do not wish to comment further from a Historic Environment perspective.'*

4.1.4 SC Highways – No Objection subject to conditions

4.1.5 SC Ecology – No Objection subject to conditions Final Response 06/03/23: *'Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.'*

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

03/01/23 – Additional Information Required

'Additional information is required. In the absence of this additional information, I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under The Conservation of Habitats and Species Regulations 2017 (Amendment) (EU Exit) Regulations.'

4.1.6 **SC Gypsy Liaison – No Objection (03/03/23)**

'There are currently no pitches available on the Park Hall site and can confirm having a waiting list comprising of several emerging households who would be deemed as a priority need.'

Following a recent survey conducted by Shropshire Council's GRT liaison officers, there are no available pitches in this geographical area on the privately owned sites. The family have four children, two attending the local school both having excellent attendance records. They have established good friendships with other children within the school and engage regularly in after school activities. They have also applied for a nursery placement for their 3rd child in the same school.

Their youngest child was recently born premature and has several serious health conditions, he is currently on around the clock oxygen (at the site) and regularly admitted to hospital for emergency care.

The submitted plans for a dayroom would facilitate a better suited lifestyle as the conditions are cramped in its current state especially now oxygen bottles and lines have been installed in the living and bedroom areas. The proposed dayroom is what I would expect for a family of this size on a site.

Gypsies and Travellers have some of the worst health and education outcomes in the country. This means shorter, less healthy lives and limited access to health and education services. A lack of provision is also a huge contributor to these problems and with the introduction of the Police, Crime, Sentencing and Courts Act 2022, it has made those wishing to continue a traditional nomadic lifestyle or those forced back onto the roadside an almost impossible way of life as it criminalises unauthorised camping in many instances, this highlights the importance of increasing the number of permanent sites for the Travelling community whether that be public or privately owned.

It is evident from my team's visits that the family are a very private and independent and committed to giving their children the best possible outcomes in life.

To my team's knowledge as front line GRT Liaison officers there are currently no suitable alternative locations/sites for the family.'

4.1.7 **SC Planning Policy: Comments provided**

'The Coton appeal provides some useful yardsticks in considering the location of sites, in particular the relationship with and levels of accessibility to settlements specifically identified by the adopted plan. In this respect the assessment of reasonable accessibility applied by the Inspector in the case of the Coton appeal site would appear to similarly apply to the site at Welshampton...'

In conclusion whilst the Council's most recent evidence (GTAA 2019 update) does not identify a general need for sites, it also recommends that applications for small sites should continue to be considered as a means of addressing specific arising needs. The

availability of suitable, alternative accommodation for the site occupants is a key consideration...

It is also beyond the remit of policy comments to consider personal circumstances in detail other than to note that the information submitted to support the application highlights that there are personal circumstances to be taken into consideration, including relating to children currently living on the site, two of whom attend the local school. Paragraph 13 PPTS sets out as desirable policy objectives provision: of a settled base and ensuring that children can attend school on a regular basis with the need for consideration of the relevance of 'best interests of the child' referenced in planning practice guidance. These matters, together with availability of suitable pitches and other material considerations, all need to be taken into consideration in the planning balance and determination of the planning application'.

4.1.8 **SC Affordable Housing: No Objection**

4.1.9 **SC Environmental Protection: No Objection**

'Environmental Protection does not have any concerns from a contaminated land perspective and does not consider that any site investigation in respect of potentially contaminated land is considered necessary having regard to the site-specific circumstances'.

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and the Councils website. At the time of writing this report, a total of 19 letters of representation have been received with all letters objecting to the development. The reasons for the objections are summarised below:

- There is sufficient provision of gypsy and traveller sites nearby
- Isolated development outside of the settlement boundary of the village
- The applicants have no local connection
- Visual harm to the landscape due to its appearance and prominence
- Poor design and materials
- Harm to natural habitats
- Harm to the setting of Grade II listed Hampton House
- Undue increase in traffic on unsuitable roads
- Inadequate provision for parking/loading/turning
- Noise
- Contaminated Land due to previous use of site
- Flood risk
- Loss of agricultural land
- Concern was raised that commercial activities have been undertaken and may be undertaken again at the site.

- Planning Officer Comment on other reasons for objection: The proposal is for the residential occupation of the site by the applicant and his family; any potential non-residential uses of the site in the future by the applicant is not a material consideration. Similarly, concerns that approval of the application could set a precedent is not a material planning consideration and carries no weight in the determination of the application. Each proposal is assessed on its own merits.

4.2.2 In addition, the local member, Cllr B. Williams. has made comments on the application

which are provided below:

'I am strongly opposed to this development which is on a site in Open Countryside (the technical term for what many people think of as Green Belt). At the Shropshire Council Planning Committee in November 2021 the application was given TEMPORARY permission for twelve months from the date that the Decision was issue on December 21st, 2021. The only reason that such temporary permission was given on planning officers' recommendation, was because it was said that no temporary permission was available on the Council's gypsy site at Oswestry. This was subsequently discovered to be incorrect as planning officers had not made any enquiry of the Council's Gypsy Liaison team, but the decision had been issued and could not be legally rescinded. Such premises on the gypsy site are available (and have been for some time) and should now be taken up by the applicants and their unlawful occupation of the Open Countryside site terminated.

I request that this application be set down for a Planning Committee hearing & decision, with the history of the previous application accurately reported by officers'.

Planning Officer comment: For clarification purposes, it not the case that the term open countryside is interchangeable with 'Green Belt'. Open countryside is land outside of a designated settlement boundary whereas 'Green Belt' land are areas which are formally designated to prevent urban sprawl. Development in Green Belt is considered inappropriate unless the development conforms with paragraphs 149 and 150 of the NPPF or 'very special circumstances' apply. The application site is not within the Green Belt.

Gypsy Liaison Officer was consulted on the previous application where approval was granted for temporary permission; the comments of the Gypsy Liaison Officer were included in the committee report at paragraph 4.1.6. The Gypsy Liaison Officer stated that there had been no communication between his team and the planning agent before that application was submitted, however, his team were consulted by planning officers and his assessment was considered as part of the planning balance section at the end of the report.

5.0 THE MAIN ISSUES

- 5.1
- Policy and principle of development
 - Gypsy and traveller status
 - Impact on character and appearance
 - Heritage impact
 - Ecological Impacts
 - Other Matters
 - Planning balance

6.0 OFFICER APPRAISAL

6.1 Principle of development

Policy Background

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the

development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

- 6.1.2 CS5 strictly controls development in accordance with national policies protecting the countryside. The policy lists housing exceptions that may be permitted on appropriate sites in countryside locations, to include those that meet a local need in accordance with national policies and policy CS12. Policy CS12 (Gypsy and Traveller Provision) recognises the need to meet the housing needs of the gypsy and traveller population and sets out how this will be achieved. Reference is made to supporting suitable development proposals for sites close to market towns and key centres and ensuring all sites are reasonably accessible to services and facilities. The supporting text of CS12 states the policy '*sets out a positive approach to meeting the accommodation needs of individuals and families through the encouragement and consideration of development proposals as they arise*' and this includes '*where appropriate, consenting currently unauthorised sites as a way of responding to the identified need*'.
- 6.1.3 The SPD Type and Affordability of Housing (2012) goes on to advise that the need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment and that, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller and the availability of alternative suitable sites.
- 6.1.4 Gypsy and Traveller Accommodation Assessment (GTAA) identifies the needs of Gypsies and Travellers from across the county, the aim of which is to provide a robust evidence base to plan for future provision and to inform the consideration of planning applications.
- 6.1.5 The National Planning Policy Framework (2021) (NPPF) and the Planning Policy for Traveller Sites (2015 update) (PPTS) together provide the national policy basis for addressing the accommodation needs of the travelling community and are material considerations when determining planning applications which relate to gypsy and traveller sites.
- 6.1.6 The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations to address under provision while directing LPA to ensure new sites respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
- 6.1.7 Paragraph 24 of the PPTS states LPAs should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- a) the existing level of local provision and need for sites*
 - b) the availability (or lack) of alternative accommodation for the applicants*
 - c) other personal circumstances of the applicant*
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
 - e) that they should determine applications for sites from any travellers and not just those with local connections*

6.1.8 It is considered inappropriate to reference draft Policy DP8 of the emerging Local Plan (which addresses Gypsy and Traveller Accommodation) as a significant material consideration at this time as the plan remains under examination and a number of unresolved objections to DP8 have been raised.

Sustainability of location

6.1.9 Policy CS12 states that an application which seeks to meet the accommodation needs of the gypsy and traveller community will be supported if it is a suitable proposal located close to Shrewsbury, the Market Towns, key centres and community hubs and clusters. Such a site may be in countryside. The Council's Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) recognises the extreme difficulties in obtaining sites for Gypsies and Travellers in towns and villages. Accordingly, it suggests new sites may need to be further outside settlements than would normally be the case for other developments. Furthermore, there is no specific requirement in the PPTS that gypsy sites should be close to facilities

6.1.10 The PPTS (paragraph 25) does however state that '*Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan*'. Paragraph 13 requires that policies ensure sites are economically, socially, and environmentally sustainable, avoid undue pressure on local infrastructure and ensure that access to health services and attendance at school is facilitated. It is a local policy requirement (bullet point 5 of CS12) that sites are '*reasonably accessible to services and facilities and suitably accessed*'. It should be highlighted though that the PPTS only looks to strictly limit new Gypsy and Traveller sites in the open countryside, rather than to entirely prohibit such development

6.1.11 The application site is situated in open countryside, as defined by Policy CS5, and outside any recognised settlement. The nearest settlement, the village of Welshampton is approximately 400m to the south has a defined development boundary and is designated as a Community Cluster within S8.2 (vi) of the SAMDev.

6.1.12 It is acknowledged that as part of the previous applications at the site, the case officer concluded that the development would represent sporadic and isolated development. Since that decision, an appeal has recently been allowed at Five Oak Stables, Coton, Whitchurch (APP/L3245/W/22/3300532) for a change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes. The appeal site and the site subject of this application bear significant similarities in their relation to their accessibility to nearby settlements and as such the appeal decision would be deemed to be a material consideration in assessing the accessibility of this gypsy and traveller site.

6.1.13 The application site is detached from Welshampton, however, CS12 supports gypsy and traveller sites close to specified categories of settlements; 'close to' is not defined though it is appropriate to consider a site with reasonable accessibility to services as being close to a settlement. Welshampton has a bus service, public house and school all of which are a 2-minute drive from the site. A broader range of facilities including secondary schools, supermarkets and health services are located at Ellesmere which is just 7 minutes away by car. The short drive times from the development to the nearest settlements and following on from the inspector's decision for the Coton appeal, it is concluded that the site would not be unduly isolated. The occupiers could easily access a range of day-to-day services and facilities by car. In line with the NPPF, CS5 supports development that maintains and improves the sustainability of rural communities by bringing local

economic and community benefits. The development's location near to Welshampton and Ellesmere and the short drive times means it is likely occupants would support local services; children that live on the site attend the school in Welshampton, so demonstrating such support. The permanent occupation of the site by one family would not cause undue pressure on local infrastructure.

6.1.14 Residents of the site are unlikely to walk to and from facilities as the routes are unlit with no roadside pavements. However, cycling trips into Welshampton would be feasible given the short separation distances. In addition to the bus service which serves Welshampton, wider ranging and more regular bus services are accessible from Ellesmere while Wem is just a 15-minute drive from where the applicants would have quick access to the nearest train station with links beyond Shropshire. As such, there is potential for occupiers of the development to utilise sustainable modes of transport for trips elsewhere in the county and further afield.

6.1.15 It is accepted that the site's occupants would likely rely on car travel for many trips. This would not be unusual given that the occupiers are Gypsies or Travellers who have a nomadic habit of life. CS12 does not explicitly require Gypsy and Traveller sites to be accessible by pedestrians or public transport. The policy allows new sites outside of settlements and so it is to be expected that accessibility by non-car modes of transport would be less when compared to developments in towns and villages. Also, whilst promoting walking, cycling and public transport, the NPPF recognises the opportunity to use sustainable modes of transport varies between urban and rural areas. With these factors in mind, it is considered the development would provide an appropriate level of accessibility by means other than the car. Bearing in mind the rural location and the difficulty in finding Gypsy and Traveller sites in villages and towns, the site provides reasonable access to services and facilities. For these reasons, the development is in a suitable location having regard to CS5 and CS12, the PPTS, and the NPPF and would be consistent with the findings of the inspector as part of the recent Coton appeal.

Need for Gypsy and traveller sites (GTAA)

6.1.16 National Policy requires that need for Gypsy and Traveller sites is assessed by the LPA and expects a 5-year supply of sites against locally set targets to be identified along with supply over at least a 10-year period.

6.1.17 The GTAA 2019 update identifies a potential cultural need for 113 pitches (of which 43 pitches were identified as PPTS need). With evidenced turnover (i.e., existing pitches which become available over the period to 2038) expected to continue at an average of 9.3 pitches p.a., the GTAA 2019 update assessed that there is no residual shortfall in pitches (for cultural or PPTS need) either over the initial 5 year or whole plan period. Therefore, it is not considered that there is a considerable level of unmet need as suggested in the Design & Access statement submitted. It should be noted however that, as with more general housing need, the GTAA 2019 update considers provision and need across Shropshire and not that specific to the Welshampton/Ellesmere area.

6.1.18 Whilst the GTAA 2019 update concludes that there is no current requirement for site allocations or evidence of the need for the identification of sites for longer term provision, it does recommend that the Council should continue to consider planning applications for appropriate small sites to address any arising needs of Gypsy and Traveller families, over the Plan period. This is in line with the Government aspiration to promote more private traveller site provision, as set out in PPTS. It also recognises that needs can arise for a number of reasons, including accessibility to school and health facilities; pitch

vacancies at the particular time; issues of ethnic mix and compatibility; ability of available sites to accommodate large family groups, etc. In this respect it is pertinent that the information submitted to support the application highlights that there are personal circumstances to be taken into consideration, including relating to children currently living on the site, two of whom attend the local school. It should be highlighted at this point that for gypsy and traveller applications, the PPTS (paragraph 24) is clear that the personal circumstances of the applicant should be considered.

Personal circumstances & availability of suitable alternative sites

6.1.19 In addition to paragraph 24 of the PPTS, paragraph 13 states LPAs should ensure they promote a settled base and ensuring that children can attend school on a regular basis with the need for consideration of the relevance of the best interests of the child referenced in planning practice guidance. These matters, together with availability of suitable pitches and other material considerations, all need to be taken into consideration in the planning balance and the determination of the planning application.

6.1.20 The council's Gypsy Liaison Officer has been consulted and confirmed that there are currently no pitches available on the Park Hall site and that there is a waiting list comprising of several emerging households who would be deemed as a priority need. There are no available pitches in this geographical area on privately owned sites.

6.1.21 The applicant has submitted information including confidential details to the planning officer about the family's circumstances and have hosted a visit from the council's Gypsy Liaison team. The family have four children, two attending the local school in Welshampton. They have also applied for a nursery placement for their 3rd child in the same school. Their youngest child was recently born premature and has several serious health conditions, he is currently on around the clock oxygen (at the site) and regularly admitted to hospital for emergency care.

6.1.22 The Gypsy Liaison Officer concluded that the proposed '*dayroom would facilitate a better suited lifestyle as the conditions are cramped in its current state especially now oxygen bottles and lines have been installed in the living and bedroom areas. The proposed dayroom is what I would expect for a family of this size on a site.*

6.1.23 It must be clarified at this point in response to some objections, that the need to undertake an exercise where personal circumstances of the applicant are weighed against harm by reason of inappropriateness only applies in accordance with paragraph 16 of the PPTS where the site is in the Green Belt. This is not a Green Belt site and therefore the need for personal circumstances to be represent 'very special circumstances' to allow approval does not apply.

6.1.24 Several objections refer to the absence of a local connection. Again, there is no need to establish a local connection as part of this application. CS12 refers to the need for an applicant to demonstrate a strong local connection for small exception sites (under 5 pitches), however, the application has not been submitted for consideration as an exception site. Moreover, the PPTS makes clear that LPAs must determine applications from any travellers and not just those with local connections.

6.1.25 The implications of the Human Rights Act, Equality Act 2010 and the best interests of the child, are also significant considerations in determination of an application.

- 6.1.26 Overall, it has been established that there is an absence of alternative sites while the personal circumstances of the applicants weigh in favour of allowing a settled base for the family. Furthermore, approving this pitch would accord with paragraph 24 of the PPTS which has the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation.

Conclusion regarding principle of development

- 6.1.27 The site is in a suitable location for a gypsy and traveller pitch due to the good level of accessibility occupiers would enjoy when travelling to and from local settlements. Though, it has been demonstrated that there is not a level of unmet need across Shropshire that would require new allocations, it is the case that the council should support the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation. In addition, the council are unable to provide any alternative sites and finally, personal circumstances including the best interests of children at the site have been established which means the permanent residential of the site would in principle comply with policies CS5 and CS12, the PPTS, and the NPPF.

- 6.1.28 The report shall now review the status of the applicants and then move to a review of other planning considerations before undertaking a balancing exercise to consider whether any harm of allowing the proposal that can be identified would outweigh the compliance of the application with local and national planning policy as has been established.

6.2 Gypsy and Traveller Status

- 6.2.1 It is necessary to the acceptability of the development that the site would be occupied by Gypsies and Travellers. Information with regards to the of the gypsy status of the applicant has been provided within the submitted Design and Access Statement as part of the current application and 21/03044/FUL, as well as within emails sent to the Planning Officer. The Gypsy Liaison Officer has confirmed that the information pertaining to the applicants status is accurate and that they continue to meet the definition of Gypsies and Travellers. Therefore, if permission was granted, a condition would be imposed to ensure the residential element is occupied by Gypsies and Travellers; the condition would be worded so that it would not exclude those who have ceased travelling permanently in line with the recent Court of Appeal judgement in Lisa Smith v SSLUHC [2022] EWCA Civ 1391 which held that the exclusion of Gypsy and Travellers who have ceased to travel permanently is discriminatory.

6.3 Impact on the character and appearance of the area

- 6.3.1 The application site is situated in open countryside where there are long distance views toward the site from surrounding public viewpoints. The nearest viewpoint is the public right of way to the east which runs along the boundary of the applicants ownership. This boundary is formed of field hedge interspersed with mature trees, however the site will clearly be visible to receptors utilising this footpath.
- 6.3.2 Additionally, there are public viewpoints from the surrounding highways network to the east and south-east. The site when viewed from the highway and surrounding area does not reflect the character of the surrounding area.
- 6.3.3 The proposal would result in the permanent retention of a single unit static caravan (currently sited to the south of the site but proposed to the eastern boundary), an amenity block and a single touring caravan. The site also includes an existing shelter originally constructed to shelter horses but is being used to store children's toys, a small shed to

house a borehole and fencing. Each of these aspects of the development have a visual impact, particularly the caravan where it is recognised in policy MD11 '*Static caravans, chalets and log cabins are recognised as having a greater impact on the countryside*' irrespective of their use. The surrounding context of the site is predominantly open arable agricultural land with native species tree and hedge planting forming field boundaries. The nearest built development is detached properties with associated outbuildings and agricultural development.

- 6.3.4 The public viewpoints around the site would not result in all encompassing view, rather there will be certain vantage points where the static caravan in particular, is more prominent and others where a limited amount of the development is visible. Certain aspects of the development could be conditioned to reduce their visual impact; the external materials of the amenity block could be controlled to ensure the cladding would be appropriate to this rural, agricultural area. The close boarded fence which currently encloses the site is incongruous and during the application, the applicant has agreed to amend the proposed site plan to show post and rail timber fencing. A further landscaping condition could be applied to ensure native species planting to the site boundaries to further mitigate the visual intrusion the development represents. It is however accepted as was the case under the previous application 21/03044/FUL, that the static caravan, hardstanding area and touring caravan, parking and associated paraphernalia, whilst they can be partially mitigated against with suitable landscaping, cannot be screened entirely and it would not be appropriate to do so. Given the prominence of the site from some areas of higher ground to the south and south-east, it is accepted that there would be some visual and landscape harm even with the suggested conditions above. The proposal is therefore considered contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and paragraphs 130 of the NPPF in relation to the impact on the character and appearance of the area.

6.4 Heritage impacts

- 6.4.1 To the south-west of the application site, approximately 80m away, is Hampton House Farmhouse, a Grade II listed building with a range of curtilage listed farm buildings to its rear. To the north-east of the site is Hawthorn House which, along with an "L" range of farm buildings indicated on the 1900 mapping, appear to have retained much of its historic interest and would be a non-designated heritage asset as defined in Annex 2 of the NPPF. Considering the proximity of heritage assets, the following local and national policies would be applicable; CS6 and CS17 of the Core Strategy, MD2 and MD13 of the SAMDev, Section 16 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 6.4.2 The Conservation Officer commented on the previous application 21/03044/FUL following the submission of a Heritage Impact Assessment which has been resubmitted as part of the application. The Conservation Officer concluded:

'We do not consider that minor use of this site as indicated (notwithstanding the structures which are not included on the application) would cause harm to the significance of the designated heritage asset and therefore would not engage Section 66 (1) of the PLB&CA Act 1990, in this instance...'

In considering this application, special regard to the desirability of preserving the buildings and their settings, together with its features of special architectural and historic interest which it possesses, has been made in line with Section 66 (1) of the above act.'

6.4.3 The development would therefore be deemed to comply with CS6, CS17, MD2 and MD13 of the Local Plan where they relate to the preservation of the character and setting of non-designated and designated heritage assets and would not engage Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.5 Ecological impacts

6.5.1 The SC Ecology team have raised no objection following correspondence with the applicant's ecologist during this application and submission of an updated Ecological Assessment carried out by Camlad Ecology (February 2023). It is considered that the limited ground works would not carry any significant risk to great crested newts and no further mitigation, over and above the recommendations of the assessment, would be necessary. Conditions shall be imposed to ensure

- works are carried out in accordance with the submitted method statement
- the submission of details of a lightning scheme
- 1 bat box and 2 bird boxes are erected at the site

6.5.2 Subject to these conditions, the application would comply with CS6, CS17 and MD12 of the Local Plan.

6.6 Other matters

6.6.1 Regarding impact on residential amenity, the separation distance from the nearest residential properties is considered sufficient to ensure that subject to the imposition of conditions on lighting and no business use of the site, it would be unlikely for undue impacts to arise from this small-scale development to warrant refusal of the application.

6.6.2 The highways access in terms of safety and visibility, together with the parking and turning layout within the pitch boundary are acceptable subject to the imposition of conditions recommended by the council's Highways Officer. A further condition would be added to ensure access gates at the site are set further back from the highway than existing to prevent obstructions to the highway which is also a public footpath.

6.6.3 The use of septic tank was accepted as part of the previous temporary permission and no concerns have been raised by the council's Drainage team relating to either foul or surface water drainage from the site.

6.6.4 Concerns have been raised by some objectors about the potential for land contamination. Objectors have stated that a hole dug at the site in 2017 prior to the refused application 17/04505/FUL for a pony ride business, was subsequently filled in by the placement of an on-site HGV trailer into the hole. The LPA cannot confirm if this was how the trailer was disposed of in 2017, however the council's Environmental Protection Team have confirmed that even if this was the case then the risk to human health and the environment having regard to the use of the land and site-specific circumstances would likely be low and not warrant further site investigations.

6.7 Planning Balance

6.7.1 This report has established that the site is close to settlements and provides reasonable access to a range of facilities. It is in a rural area and so most trips to and from the site would be by car, however, services needed on a day-to-day basis, including schools and health facilities, are at local settlements within short driving distances. Therefore, it is reasonable to expect occupiers would support the vitality of rural communities. Also, the

site is a short drive from bus and railway links to towns further afield. Bearing in mind the rural location, the difficulty in finding Gypsy and Traveller sites in villages and towns and the recent Coton appeal, the site is assessed to provide reasonable access to services and facilities. For these reasons, it is concluded that the development is in a suitable location having regard to CS policies CS5 and CS12, the PPTS and the NPPF.

- 6.7.2 As the development would comply with gypsy and traveller development plan policies then it would not be reasonable or necessary to limit the occupation to the current residents for a temporary period to make the development acceptable. Consecutive temporary permissions on the site would not accord with national planning guidance and would only cause further uncertainty for the applicants and their children. The LPA furthermore cannot confirm when suitable sites may become available thereby making any temporary permission still yet more unreasonable.
- 6.7.3 The LPA accept there are no other locally available sites and that the needs of the family which includes 4 children would be best served by a permanent, settled base in proximity to the school where two of the children attend. In determining the application, the best interest of the child is a primary consideration in all actions by public authorities concerning children. If permission was refused then it would be likely that the applicants would be required to leave the site and with no available alternative sites there would be the prospect that the family would have to lead a roadside existence which could impact on access to medical or other services that they may need. Significant weight would be attributed to the needs of the children and the absence of alternative sites.
- 6.7.4 Weighed against the above is the visual and landscape harm that has been identified, however, though the harm would not be wholly mitigated by conditions, it is the case that the site's compliance with national and local gypsy and traveller policies in relation to accessibility to local settlements, the lack of alternative sites and the circumstances of the family would outweigh this harm to justify approval for a permanent gypsy and traveller pitch.

7.0 CONCLUSION

- 7.1 Though visual and landscape harm has been identified, the site is in a suitable location for a gypsy and traveller pitch due to the good level of accessibility occupiers would enjoy when travelling to and from local settlements; the site's location is therefore in accordance with policies CS5 and CS12, the PPTS, and the NPPF. It is furthermore the aim of the council in accordance with the Core Strategy, the GTAA and the PPTS to support the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation. It has been confirmed that the council are unable to provide any suitable alternative sites and finally, personal circumstances weigh in favour of approval as it has been established that the best interests of children at the site would be served by having a permanent base at which to live. In conclusion, the permanent residential use of the site is recommended for approval subject to conditions.

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.

The Equality Act 2010 says public authorities must comply with the public sector equality duty (PSED). The PSED requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. It is considered that this report has had due regard to the need to advance equality of opportunity between Gypsies and Travellers on the one hand, and non-Gypsies and Travellers on the other.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS12 - Gypsies and Traveller Provision

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S8 - Ellesmere

National Planning Policy Framework

PPTS - Planning Policy for Traveller Sites

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

20/01361/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works REFUSE 4th September 2020

21/03044/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works (part retrospective) GRANT 23rd December 2021

22/01811/DIS Discharge of Conditions 3 (Landscaping) and 4 (Caravan and amenity materials) relating to Planning Permission 21/03044/FUL DISAPP 5th May 2022

22/05515/FUL Change from Temporary to Permanent Gypsy / Traveller Site to include 1 no. Static Caravan, 1 no. Touring Caravan, 1 no. Amenity Block, Storage Shelter, and Gravel Drive part retrospective (as approved on Planning Ref: 21/03044/FUL) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RMJBRBTDKZ800>

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

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

2. Prior to first occupation of the amenity block, the following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific) and/or small birds (32mm hole, standard design).

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

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

3. Within three months of this permission, a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. Only external lighting in accordance with approved details shall be provided on the site

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

4. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding great crested newts and birds as provided in Section 4.2 of the Ecological Assessment (Camlad Ecology, February 2023).

Reason: To ensure the protection of and enhancements for Great Crested Newts, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

5. The amenity block hereby permitted shall not be occupied until the areas shown on the Proposed Block Plan Drawing No. 71370:1001 for parking, loading, unloading, 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.

6. There shall be no more than 1 pitch on the site and no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed at any time, of which only 1 caravan shall be a mobile home/static caravan. The mobile homes/static caravans shall be positioned in accordance with the details as shown on the approved plans. Any touring caravan shall only be positioned on the area as shown on the approved plans and nowhere else on the site.

Reason: To safeguard the amenities of the locality

7. The development hereby approved shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community within the Local Planning Authority's area at the date of the permission hereby granted.

8. No construction works on the amenity block hereby permitted shall commence until full details of external materials of the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

9. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr James Doran and Mrs Barbara Doran.

Reason: To ensure that the site is only occupied by the Applicant/s and their named dependants

10. Within three months of the date of this permission, details of new, replacement access gates, including elevations and details of their materials, shall be submitted to the Local Planning authority for approval prior to their installation. The access gates shall be set a minimum distance of 10 metres from the carriageway edge and shall be made to open inwards only. The existing field gate that is set back 1m from the carriageway edge shall be removed. The development shall be undertaken in accordance with the approved details.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or 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:-

- the erection of fences, gates or walls or other means of enclosure

Reason: To enable the Local Planning Authority to control the development and to safeguard the character and appearance of the development.

12. Within three months of the date of this permission, a hard and soft landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species (including scientific names) and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including driveway, parking area, patios) and
- (d) any retained planting.
- (e) a detailed programme of implementation

The hedge and tree planting shall be carried out in accordance with the approved details within the first planting season. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with all of the approved details.

Reason: In the interests of the visual amenities of the area

Informatives

1. Protection of Visibility Splays on Private Land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

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 a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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.

Mud on highway

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

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.

2. 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 should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be

clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

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

General site informative for wildlife protection

Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

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

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

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

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

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

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

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

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

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

Landscaping informative

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.

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

Demi Cook
Planning Ecologist
Shropshire Council
Tel: 01743 254316
Email: demi.cook@shropshire.gov.uk

3. A sustainable scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's SuDS Handbook which is available in the Related Documents Section on the Council's Website:
<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network.

Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

-



Committee and date

Northern Planning Committee

4th April 2023

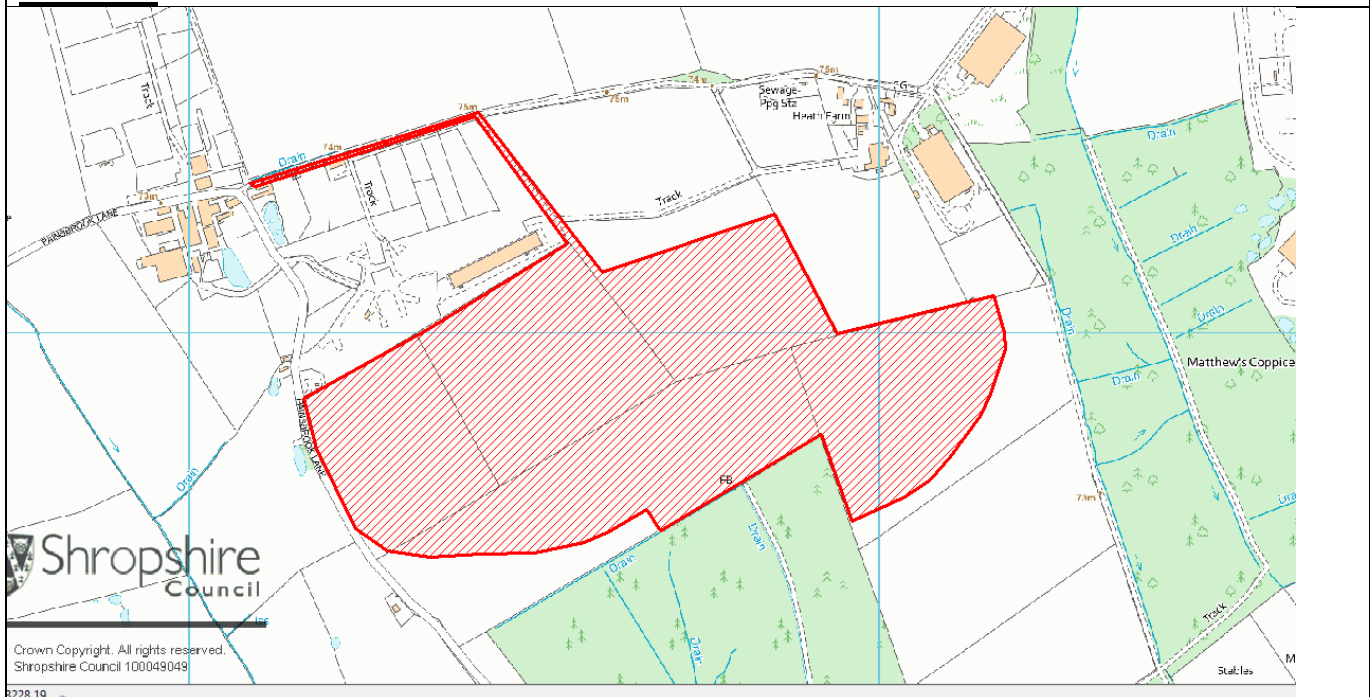
Development Management Report

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

Summary of Application

Application Number: 22/03828/EIA	Parish:	Hadnall
Proposal: Construction of two free range poultry houses with feed bins and ancillary equipment		
Site Address: Painsbrook Farm Painsbrook Lane Hadnall Shrewsbury Shropshire		
Applicant: Mr Brisbourne		
Case Officer: Philip Mullineux	email: philip.mullineux@shropshire.gov.uk	

Grid Ref: 353068 - 321189



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Recommendation: Refusal. The application falls short of the requirements of EIA Regulations 2017 in that it has potential to have significant potential direct and indirect adverse impacts on the environment, and insufficient information has been provided in relation to manure management and its disposal. This is considered a by-product of the development and as such the Environmental Statement in support of the application does not meet the requirement of EIA regulations. As such it is considered that the proposal does not comply with Policies CS5, CS6, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2 and MD7b of the SAMDev, the National Planning Policy Framework and the Town and County Planning (Environmental Impact Assessment), Regulations 2017.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is made in 'Full' and proposes erection of two free range poultry houses with eight feed bins, (four alongside each of the two proposed chicken houses), and ancillary equipment on land at Painsbrook Farm, Painsbrook Lane, Hadnall, SY4 4BA
- 1.2 It is accompanied by a site location plan, block plan, elevations and floor plans, plan of heritage assets, ammonia report, ecological assessment, nitrogen calculations and a report termed an 'Environmental Statement'.
- 1.3 Pre-application advice was given in relation to a proposal for an expansion to the existing egg laying unit that forms part of the farming business dated 21st May 2020 and this indicated as the conclusion:

'Whilst on the basis of the information as provided to-date, I consider that the principle of development as indicated could be considered acceptable in principle, the proposal represents substantial development in the open countryside to which careful consideration is required to all the subject issues as identified in this letter. Careful consideration is required to issues as raised and in particular in relation to landscape and ecological mitigation, as well as impacts on residential amenity and public highway access

I also draw your attention to the requirement for an Environmental Statement in accordance with Environmental Impact Assessment Regulations as discussed earlier in this letter.'

- 1.4 In the Council's pre-application advice dated 19th March 2020 cumulatively with the existing development the proposal was considered to be EIA development and therefore would need an Environmental Statement. The existing development does not meet the threshold to be (Schedule one 17(a) threshold being 60,000 places for hens). However the new proposal for a total of 64,000 extra birds meets the threshold in Schedule 1 - 17(a) being in itself a proposal of more than 60,000

birds. In assessing the environmental effects of the development it is necessary to consider the cumulative impact of the development as a whole.

- 1.5 The Environmental Statement submitted in support of the application indicates that the development as proposed is for two new buildings each measuring 120m long x 20m. Height to the ridge level will be 6 metres. The maximum capacity of the proposed new sheds will be 64,000 birds on completion. (32,000 in each of the two proposed chicken units). The laying cycle will be 14 months, plus a turnaround period for de-stocking and cleaning etc. of 14 – 21 days.
- 1.6 Planning approval was granted on 18th March 2019 for 'Erection of free range poultry laying unit (32,000 birds) with 3No. feed bins and ancillary equipment; alterations to existing access' on land close to the application site and this egg laying unit is part of the same agricultural business. (Approval reference 18/04465/FUL).
- 1.7 There were two previous applications on site: (reference 21/03061/FUL), for the erection of two free range poultry houses with feed bins and ancillary equipment *was withdrawn on 22nd September 2021 on Officer advice as the application was considered deficient in information provided and also referred to the incorrect Environmental Impact Assessment Regulations.* The second one (reference 21/05985/EIA was refused on 1st April 2022 owing to insufficient information in support of the application on which basis to make a positive recommendation.
- 1.8 During the current application processing confirmation was submitted that the applicant intends installing air scrubbers on each of the proposed chicken sheds as well as one on the existing shed alongside the site. Each new unit to be supplied with four roof-mounted fans therefore 12 fans in total. Three new air scrubbers (1 to each unit (including 1 for the existing unit). Each air scrubber will have 9 exhaust fans (27 in total)

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is relatively flat and in agricultural use and covers an area of approx.0.95 hectares in accordance with detail as set out on the application form, it classed as Grade 2 land in accordance with the agricultural land classification index and current in either arable use or as ranging in relation to an adjacent unit which will form part of the larger poultry enterprise site to the business concerned, if this application is subsequently approved. The site is situated approx 400 metres south east of Painsbrook Farmstead, being around 1.5km north of the village of Hadnall. There are mature hedgerow boundaries within the vicinity of the application site. Adjacent to the proposed development site is an existing intensive egg laying unit and this is similar in scale and size to the two proposed individual units subject to this application.
- 2.2 Detail as part of the Environmental Statement in support of the application indicates that the construction materials proposed will consist of a steel framed fully insulated building clad externally with profiled steel sheeting coloured by agreement with the Local Authority. The applicant proposes slate blue cladding for the roof, walls and feed bins. An integral part of the design of the development is an effective and appropriate landscaping scheme. The proposed features will screen the development over time, provide additional landscape features which are

sympathetic to the local landscape character and provide additional habitat. It is considered the existing mature native species hedgerows around the field boundaries around the proposed buildings will assist assimilation of the development into the landscape. The applicants will let those hedgerows grow taller. Clean run-off water will be collected via drains to a large french drainage field. It will then percolate into the free draining soil. The drains work very well and can accommodate the proposed buildings. Feed will be stored in steel bins, which will be sited as shown on the Site Layout Plan. Sufficient bins are needed to ensure adequate supply in the event that bad weather prevents deliveries.

2.3 The Environmental Statement in support of the application indicates that the size of the new buildings will be 120metre long x 20metres. Height to the ridge level will be 6 metres. The maximum capacity of the proposed sheds will be 64,000 birds on completion. The laying cycle will be 14 months, plus a turnaround period for de-stocking and cleaning etc. of 14 – 21 days.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The application is considered schedule one development in accordance with EIA Regulations. As such the application requires Committee consideration.

4.0 **Community Representations**

4.1 **Hadnall Parish Council** have responded indicating support for the application.

4.2 **Consultee Comment**

4.3 **The MOD** have responded indicating:

Thank you for consulting the Ministry of Defence (MOD) on the above proposed development with additional ranging plan and revised information, which was received by this office on 18th January 2023.

The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the Ministry of Defence (MOD) as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System.

This is an EIA screening report for the construction of two free range poultry houses approx. 6.2m in height with feed bins and ancillary equipment.

The application site occupies the statutory safeguarding zones surrounding RAF Shawbury. In particular, the aerodrome height, technical and birdstrike safeguarding zones surrounding the aerodrome and is approx. 400m from the boundary of RAF Shawbury

After reviewing the application documents, I can confirm the MOD has no safeguarding objections to this proposal.

The MOD must emphasise that the advice provided within this letter is in response to the data and information detailed in the developer's documents titled 'Ranging Plan', 'Revised Noise Impact Assessment' dated December 2022. Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development

relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.

4.4 **SC Conservation** have responded indicating:

We have no further comments to make in relation to conservation matters (No objections).

4.5 **SC Drainage** have responded indicating:

The revised block plans do not affect the drainage proposals or our comments dated 7th December 2022 for which we await further details.

An earlier response indicated:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Condition:

No development shall take place until a scheme of surface and polluted 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.

Comment:

The drainage proposals as outlined in the Environmental Statement are generally acceptable. However the completed Surface Water Drainage Proforma suggests that details of how to control the 1% plus CC storm flows are included in the FRA and that other construction details will be dealt with as part of a further application. Infiltration tests and the sizing of the soakaway trenches in accordance with BRE 365 must be submitted for approval together with a detailed drawing showing the control of the dirty water. No specific details are included the FRA or the Environmental Statement but can be dealt with as part of the above planning condition

An earlier response indicated:

1. The Flood Risk Assessment proposes the use of soakaways to drain the proposed development. Although the outline SUDs applicability zone of the site according to Shropshire Council's records is infiltration, full infiltration tests data and associated calculations must accompany the BRE 365 soakaway design

calculations.

2. To fully develop the surface and foul water designs to satisfy the LLFA's requirements, reference should be made to Shropshire Council's SuDS Handbook which can be found on the website at <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

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

4.6 **SC Trees** have responded indicating:

As no trees or hedges are directly affected a Tree Report is not required. I have no arboricultural comments and defer to SC Ecology and Landscape Consultant on these matters.

4.7 **SC Landscape Consultant** has responded in conclusion indicating:

Other than the omission of the approach to cumulative landscape and visual effects, the methodology for the LVIA is appropriate for the nature of the proposed development and scale of likely effects, and has been prepared in compliance with GLVIA3 and relevant supporting Technical Guidance. We consider that the findings may be relied on to make a sound planning judgement.

All predicted effects are adverse or no change, apart from one predicted beneficial effect on the landscape fabric of the site once mitigation is in place and effective. Significant adverse effects are predicted on the landscape character of the site during the operational phase of the proposed development.

The proposal site has the potential to accommodate a development of this nature given the vegetation in the vicinity which act to limit visibility to the majority of visual receptors away from the immediate vicinity of the site, and the baseline presence of the existing poultry unit. Mitigation measures have the potential to reduce the level of adverse effects and provide beneficial landscape and biodiversity effects. We consider that, although long term adverse effects are predicted, these are not at an unacceptable level and should not prevent the proposals from complying with the Council's Local Plan policies on landscape and visual amenity, particularly given the presence of existing poultry units.

We recommend that, should the application be approved, a condition be imposed requiring the submission of full landscape details and a maintenance and management plan, with suggested wording as follows:

- No development shall take place until a detailed hard and soft landscape scheme for the whole site has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The details shall include: Plant species, sizes, numbers and

densities, method of cultivation and planting, means of protection and programme for implementation. This is for all grassed areas, tree, shrub, and hedgerow planting

- No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. The maintenance shall be carried out in accordance with the approved schedule. The maintenance schedule shall include for the replacement of any plant (including trees and hedgerow plants) that is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective. The replacement shall be another plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation

4.8 **SC Ecology** have responded indicating:

No objection. Conditions are required to ensure the development accords with the NPPF, MD12 and CS17.

COMMENTS

Since my previous comments of 20 December 2022, revised drawings have been submitted showing scrubbing units fitted to each of the two new buildings and one added to the existing poultry unit. There is also now a holding water tank shown for the existing building scrubber, which would be shared with one of the proposed buildings.

With regards to ranging areas, the ammonia and odour report have been amended to show ranging areas in accordance with where the pop holes are to be located.

Ammonia emissions and nitrogen deposition upon sensitive sites has been assessed in 'A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Existing and Proposed Free Range Egg Laying Chicken Houses and the Impact of Proposed Mitigation Measures at Painsbrook Farm, Painsbrook Lane, near Hadnall in Shropshire' by AS Modelling & Data, dated 27th July 2022 (submitted 23 January 2023).

The following BAT* measures are proposed:

- Ammonia scrubber retro-fitted to the existing free range egg building at Painsbrook Farm
- Ammonia scrubbers fitted on the two proposed free range egg buildings at Painsbrook Farm

*BAT = Best Available Techniques

Information from the air quality report regarding existing and proposed ammonia emissions and nitrogen deposition upon designated sites is shown below.

HENCOTT POOL RAMSAR/SSSI

Existing Process Contribution % of Critical Level: 0.12%

Proposed* Process Contribution % of Critical Level: 0.19%

Difference in Critical Level between existing and proposed: 0.0007 ug/m³

Existing Process Contribution % of Critical Load: 0.1%

Proposed* Process Contribution % of Critical Load: 0.15%

Difference in Critical Load between existing and proposed: 0.005 kg/ha

FENEMERE RAMSAR/SSSI

Existing Process Contribution % of Critical Level: 0.04%

Proposed* Process Contribution % of Critical Level: 0.05%

Difference in Critical Level between existing and proposed: 0.00036 ug/m³

Existing Process Contribution % of Critical Load: 0.09%

Proposed* Process Contribution % of Critical Load: 0.12%

Difference in Critical Load between existing and proposed: 0.003 kg/ha

* proposed scenario with emission factors for the existing and proposed poultry units with ammonia scrubbers fitted.

The modelling shows that the proposal will result in small increases in the existing ammonia and nitrogen process contributions at the above designated sites, however, these increases are below all the JNCC de minimus thresholds, therefore they are deemed to be so small as to be insignificant, and do not require to be assessed in-combination with any other projects emitting ammonia or depositing nitrogen.

Landscaping includes additional native tree and species-rich native hedgerow planting which is welcomed. The Landscape and Biodiversity Enhancement and Management Proposals report by H:B:A Environment dated November 2021 and Drawing no. HBA 01 should be read in conjunction with each other and be approved documents.

Recommendations contained within the EclA by Churton Ecology dated 9 May 2021 regarding the fencing of hedgerows (a priority UK habitat) are not shown on any plans and therefore a condition is recommended to ensure appropriate fencing is erected in accordance to protect these important features.

RECOMMENDED CONDITIONS

Prior to the commencement of the development a scheme shall be submitted in writing detailing contingency measures to be adopted to in the event that the operation of the scrubbing unit is not possible, such as plant breakdown, and set out procedures to ensure that the time without the use of air scrubbing unit is minimised. The poultry rearing operation shall be undertaken in accordance with the approved scheme.

Reason: to mitigate adverse impact on biodiversity from ammonia emissions consistent with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and the policies of the National Planning Policy Framework

No birds shall be brought to any of the egg laying units hereby permitted, or to the existing egg laying unit, unless the associated air scrubbing unit is in effective working order.

Reason: To prevent adverse impact on biodiversity from ammonia emissions consistent with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and the policies of the National Planning Policy Framework.

Prior to first beneficial use of the development, evidence (prepared by a suitably qualified industry professional) shall be submitted to the LPA to confirm that the air scrubbers detailed in 'A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Existing and Proposed Free Range Egg Laying Chicken Houses and the Impact of Proposed Mitigation Measures at Painsbrook Farm, Painsbrook Lane, near Hadnall in Shropshire' by AS Modelling & Data, dated 27th July 2022 (submitted 23 January 2023), the 'Environmental Statement' by Halls dated September 2022 and shown on drawing number HPJ10707-202 Rev. D have been installed and are fit for purpose. The air scrubbers shall be maintained and operated thereafter, in accordance with the manufacturer's instruction for the lifetime of the development.

Reason: To prevent adverse impact on biodiversity from ammonia emissions consistent with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and the policies of the National Planning Policy Framework.

The poultry laying units hereby approved shall be limited to occupation by 64,000 birds.

Reason: To ensure that the restriction on the maximum number of birds to be kept in the buildings at any one time can be satisfactorily enforced, in order to prevent adverse impact on biodiversity from ammonia emissions consistent with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and the policies of the National Planning Policy Framework.

Prior to first use of the development, a plan showing the location, extent and specification for fencing of hedgerows as detailed in section 5.1.1 of the Ecological

Impact Assessment by Churton Ecology dated 9 May 2021 has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 174 of the NPPF.

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.

4.9 **SC Archaeology Manager** has responded indicating;

We have no comments to make on this application with respect to archaeological matters

4.10 **SC Highways** have responded to the application indicating:

No objection – subject to the development being constructed in accordance with the approved details and the following conditions and informative notes.

Conditions:

Passing Place

No development shall take place until the passing place as detailed on Passing Bay Information Drawing no. HPJ10707-206 has been fully implemented and completed in accordance with the approved details and thereafter be kept clear and maintained at all times for that purpose.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

Access, Parking, Loading, Unloading and Turning

The development hereby permitted shall not be brought into use until the areas

shown on the approved Site Plan Drawing No. HPJ10707-202 Rev B for the access parking, loading, unloading, 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.

Observations/Comments:

Further to the Highway Advice Note dated 07.11.2022, additional and revised details have been published. The highway matters previously raised in terms of the traffic information and passing bay details have now been forwarded.

The additional poultry houses will result in an increase in vehicular traffic to the site mainly HGV, tractor and trailer movements in connection with manure removal, additional feed deliveries and bird collection at the end of the 14 month cycle. It is considered that the increase in traffic is unlikely to result in such adverse conditions in capacity terms to sustain a highway objection purely on safety. The collection of the birds however results in a tidal flow of HGV traffic whilst the increased manure removal and feed delivery movements further increases the potential of vehicles meeting one another along the lane.

In connection with the earlier application priority was given to providing a passing place within the initial section of the lane just to the east of its junction with the A49. The current application has proposed a further passing place to help mitigate against inconvenience of traffic meeting one another. The proposed additional passing bay to the east of the 'double bend' should elevate the need for an HGV to reverse back at this point and further aid movement along the lane both in connection with the proposed development and for all road users.

Based upon the information contained within the submitted information and proposed highway works it is considered that, subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

The proposed passing bay works will however need to be covered by an appropriate highways agreement/license with Shropshire Council as the Highway Authority and attention is drawn to the following informative notes.

Informative notes:

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 a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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.

Mud on highway

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

An earlier response indicated:

For the proposed development to be appropriately assessed, from a highways and transport perspective, the following information is required to be submitted, by the applicant:

- Transport Statement. Information should be forwarded in respect of all vehicular trips and types generated by the current poultry building and users of Painsbrook Lane, updated from the earlier development. The number of anticipated trips and types as a result of the proposed development. The distribution pattern for the vehicular movements identified by the statement, describing peak flows and the cyclical nature of the operation.
- It would seem that further consideration has been given to increasing the number of passing places along the lane by improving an existing opportunity to the east of the tight bends. The information given on the current drawing no. HPJ10707-205 Rev A appears to attempt to replicate the earlier approved drawing no. HP-J996_006 Rev B (19/01978/DIS) in discharging condition 4 of consent 18/04465/FUL. The overall width of the carriageway (existing carriageway and widening) should be a minimum of 6 metres and the construction information appears to have been truncated with no information given in terms of the tie-in or drainage of the passing place.

Informative notes:

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 a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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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.

Mud on highway

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

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.

4.11 **Shropshire Fire and Rescue Service** have responded indicating:

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link: <https://www.shropshirefire.gov.uk/safety-at-work/planning-applications>

4.12 **SC Public Protection** have responded indicating:

Environmental Protection has reviewed the additional technical note on noise and has the following comments:

The cumulative impact of the additional plant (air scrubbers) has been assessed and indicates that the plant noise associated with the proposal is not likely to have a significant noise impact on surrounding properties.

Predicted L_{Amax} levels associated with night time HGV movements passing

residential properties on the access route, have not been provided in the technical note. In the absence of this it is fair to assume that the noise levels and the frequency of movements during bird removal would be such that it is likely to cause sleep disturbance even with windows shut. Where internal LAFmax levels exceed 45dB more than 10 times a night this is likely to cause sleep disturbance. The existing sheds result in 6 HGV pass by's each night during bird removal whereas the additional sheds will result in 18 HGV pass by's each night.

Therefore on the nights when the birds are being removed it is likely to result in sleep disturbance at the properties close to the access route, nonetheless, as the technical note highlights this will only occur on 2 nights every 14 months (assuming all sheds are in sync and cleared at the same time). Whilst the impact is infrequent it is something the planning officer should be aware of when considering any cumulative impacts and determining the application

An earlier response indicated:

Environmental Protection has reviewed the noise and odour reports and has the following comments: Noise The cumulative impact of all the fans running at the same time needs to be assessed. Please could the noise consultant confirm whether the calculated specific level detailed in Table 8 relates to the cumulative impact of all fans running at the same time. During bird removal there will be 18 HGVs equating to 36 vehicle movements spread over 2 nights. The noise assessment report has assessed the noise impact from vehicles within the proposed development site but has not considered the noise impact as the HGVs pass residential properties on the way into the site. When these vehicles access and leave the site via Painsbrook Lane they will pass within approximately 10m of two residential properties. The noise levels of HGVs passing these properties has not been considered, in particular the LAmax levels which have potential to cause sleep disturbance. Odour Manure management Previous appeals found that moving the spreading of manure to a third party for spreading would be considered to be an indirect impact of a poultry application requiring consideration by the planning regime. Hence I would recommend that an appropriate manure management plan is required or an agreement that the applicant will only provide manure to those that agree with the applicant to spread manure in line with the DEFRA Code of Good Agricultural Practise Protecting our Soil, Water and Air. It would be advised that this aspect should be conditioned to ensure that the planning regime offers reasonable security of this aspect having a low impact. Environmental Permit The proposal is for two sheds housing 64,000 birds in addition to the existing 32,000 bird unit approved in 2019. As such the development will require an environmental permit issued and regulated by the Environment Agency prior to operation. It is advised that the Environment Agency is consulted on this application and the applicant is recommended to place an application for the environmental permit in tandem with this planning application in order to ensure that both control regimes are aligned and that any conditions placed on each do not conflict with the

other causing further application to be made which are likely to cost the applicant time and money

4.13 **Public Comments**

4.14 Three letters of objections have been received from members of the public. key planning issues raised can be summarised as follows:

- Concerns with regards to waste generated on site and its disposal.
- Odour from the existing site is a concern.
- Public highway access road to the site is badly maintained.
- Manure storage and spreading. .

5.0 THE MAIN ISSUES

- Principle of development and EIA procedure.
- Siting, scale landscape and historic impact.
- Drainage
- Public highway and transportation
- Ecology
- Residential amenity

6.0 OFFICER APPRAISAL

6.1 **Principle of development**

- 6.1.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development and establishes a presumption in favour of sustainable development (para. 7). One of its core planning principles is to proactively drive and support sustainable economic development. Sustainable development has three dimensions – social, environment, and economic. The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises, in rural areas, and promotes the development of agricultural businesses (para. 84). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 174) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 185).
- 6.1.2 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74).
- 6.1.3 Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting

rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.

6.1.4 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of an extension to the existing farming business egg laying unit can be given planning consideration in support. Policies recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets.

6.1.5 **Environmental Impact Assessment**

6.1.6 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of egg laying birds is 60,000 or more. As such the current proposal is classed as schedule 1: 17(a) EIA development. (60,000 places for hens). An adequate Environmental statement in support of such an application is therefore essential. Whilst the proposal also falls into the remit of Schedule 2 EIA Development criteria (Schedule 2 1(c) – Agriculture and aquaculture and intensive livestock installations, as area of floor space exceeds 500 square metres). The fact that the number of birds on site is to be 64,000 means that Schedule 1 development procedure prevails. This is also irrespective of the existing birds in the existing building adjacent to the site and pre-application advice in relation to the proposal for development on site which was in relation to 24,000 birds in each shed. (48,000).

6.1.7 It is noted detail as set out in the applicants Environmental Statement submitted in support of the application refers to the statement having been prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (hereafter referred to as the Regulations).

6.2 **Siting, scale, landscape and historic impacts.**

6.2.1 Paragraph 195 of the NPPF indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, (including by development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

6.2.2 As indicated in paragraph 2.3 above the size of the two new poultry housing buildings will be 120 metre long x 20 metres. Height to the ridge level will be 6 metres. The construction materials proposed will consist of a steel framed fully insulated building clad externally with profiled steel, to which detail in the applicants Environmental Statement indicates that external construction sheeting will be

coloured by agreement with the Local Authority. The applicant has indicated a preference for slate blue cladding for the roof, walls and feed bins. This is considered acceptable and if the Council are mindful to approve the application it is considered necessary to attach a condition to any approval notice to reflect this.

- 6.2.3 It is noted in relation to the historic environment, the Council's Conservation Manager raises no objections as it is considered the proposal will not have any detrimental impact on the surrounding historic environment. These conclusions are shared and with adequate consideration to landscape and visual impact matters, impacts on the historic built environment it is considered will be acceptable.
- 6.2.4 As part of the Environmental Statement a landscape and visual impact assessment has been submitted and this concludes that there would be a significant adverse effect on the character of the site landscape during the operational phase of the proposed development due to the presence of poultry units 2 and 3. However, there would not be any significant adverse effects on the landscape fabric of the site, on the character of the surrounding landscapes or on the visual amenity of receptors in the study area during the construction and operational phases of the proposed development due to the degree of screening provided by the abundance of existing vegetation on and around the site and the separation distances between the proposed development and the residential properties, public rights of way, visitor venues and roads in the study area. Furthermore, as the woodland, hedgerow and tree planting proposed in the landscape and biodiversity enhancement and management plan establishes, this would bring about long-term beneficial effects on the character of the site and surrounding landscapes which would help to offset the predicted significant effects on the character of the site landscape during the operational phase.
- 6.2.5 The Council's Landscape Consultant has responded to the application indicating that they consider the applicants Landscape and Visual Impact Assessment can be relied upon to make a sound planning judgement. Whilst it is considered all predicted effects are adverse or no change, apart from one predicted beneficial effect on the landscape fabric of the site once mitigation is in place and effective. Significant adverse effects are predicted on the landscape character of the site during the operational phase of the proposed development, however it is considered that the proposal site has the potential to accommodate a development of this nature given the vegetation in the vicinity which will act to limit visibility to the majority of visual receptors away from the immediate vicinity of the site, and the baseline presence of the existing poultry unit. Mitigation measures do have the potential to reduce the level of adverse effects and provide beneficial landscape and biodiversity effects. It is considered that, although long term adverse effects are predicted, these are not at an unacceptable level given the rural location and surrounding topography and should not prevent the proposals from complying with the Council's Local Plan policies on landscape and visual amenity, consideration has been given to the presence of the existing poultry units.
- 6.2.6 As such on balance with appropriately worded conditions in respect of external construction colouring, landscaping in relation to the whole of the site and a landscape maintenance scheme attached to any approval notice, if the Council are

mindful to approve the application, in relation to scale, landscape and visual impact and the historic environment, the application is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD12 and MD13 of the SAMDev and the National Planning Policy Framework on these matters.

6.3 **Drainage**

- 6.3.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development. It is noted that the application site is in flood zone 1 in accordance with the EA flood risk data maps. (lowest risk),
- 6.3.2 A flood risk assessment forms part of the applicants Environmental Statement in support of the application and this indicates that the whole of the site falls within Flood Zone 1 for rivers and has only small pockets of potential standing water from surface water run-off and subject to satisfactory surface water drainage to the site proposals there will be no flood risk to the site or any other properties. Appropriately designed soakaways will be used for the building as suitable porosity is available. The soakaways will be stone trench with one provided for each quarter of the proposed poultry unit. The soakaways will be stone trench with 30% voids. All exceedance flows and flows for the 1 in 100-year event will dissipate to land surrounding the poultry unit and within the applicant's lands. The ground has suitable porosity and as such exceedance flows will dissipate to ground. Following the construction of the development and installation of the soakaways there will be no residual flood risks with the site or any property beyond. The drainage proposals are appropriate for the development and sufficient land will allow exceedance flows to flow away from the units and drain to farmland.
- 6.3.3 The Council's Drainage Manager has responded to the application raising some concerns, however indicating in principle with an appropriately worded condition in relation to a scheme of surface and polluted water drainage attached to any approval notice that the development is acceptable. The response indicates that the drainage proposals as outlined in the Environmental Statement are generally acceptable. However the completed Surface Water Drainage Proforma suggests that details of how to control the 1% plus CC storm flows are included in the flood risk assessment and that other construction details will be dealt with as part of a further application. Infiltration tests and the sizing of the soakaway trenches in accordance with BRE 365 must be submitted for approval together with a detailed drawing showing the control of the dirty water. No specific details are included, the FRA or the Environmental Statement but can be dealt with as part of the above referred to planning condition.
- 6.3.4 On balance with consideration to overall detail in support of the application on drainage matters and site observations, it is considered that with an appropriately worded condition that the development could be acceptable and in accordance with Policies CS6 and CS18 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF on drainage matters.

6.4 **Public highways and transportation**

6.4.1 The applicants Environmental Statement includes a section on transportation and vehicle movements in relation to the site. The following table is taken from the environmental statement and refers to all vehicle movements in relation to the egg laying business as existing and proposed.

Proposed vehicle movements in relation to the existing and proposed.

Purpose of Movement	Vehicle	Frequency with one shed	Frequency with three sheds.	Extra movements
Feed delivery	HGV	1 in and out per week (52 per year)	3 in and out per week (156 per year)	2 in per week 2 out per week
Egg Collection	Artic/HGV	Every 3 days (104 per year)	No change (104 per year)	none
Staff	Car	1 in and out per day (365 per year)	2 in, 2 out per day (730 per year)	1 extra per day
Manure removal	Tractor and trailer	2 loads per week (104 per year)	6 loads per week (312 per year)	4 loads per week in and out
Bird removal	HGV	6 artics every 14 months (5.14 per year)	18 artics every 14 months (15 per year)	0.14 per week
TOTAL		630 in per year 630 out per year 12.11 Per Week	1317 in per year 1317 out per year 25.33 in and out Per Week	687 in per year 13.21 in per week

The applicants transportation statement indicates that the current total number of vehicle movements relating to the poultry enterprise per year is 630 out of 13,461. The increase in vehicle movements per year due to the expansion in the poultry enterprise is 687 per year in and 687 per year out. The vast majority of vehicles using Painsbrook Lane are cars during normal working hours. HGV usage is very low on a daily basis (0.7 in per day). When Painsbrook had a dairy herd there was a milk tanker every day. Car journeys to Painsbrook are spread throughout the week. Visitors to the farm's stables are very early in the morning and before the riding school opens. The riding school's busiest time is when the farm shop is closed. The increase in car movements along Painsbrook Lane on an annual basis due to the proposed use is 365 in and out (each) being 2.8% which is considered negligible. The increase in Lorry/HGV's number is 111 per year in and out (each), which equates to 0.31 in and 0.31 out per day.

- 6.4.2 Painsbrook Lane which leads to the site from the A49 public highway has had improvements carried out as a result of the previous approval for an egg laying unit which is located alongside the proposed development site.
- 6.4.3 The SC Highways Manager has responded to the application indicating that it is considered that the increase in traffic is unlikely to result in such adverse conditions in capacity terms to sustain a highway objection, purely on safety. The collection of the birds however results in a tidal flow of HGV traffic whilst the increased manure removal and feed delivery movements further increases the potential of vehicles meeting one another along the lane. In connection with the previous approval priority was given to providing a passing place within the initial section of the lane just to the east of its junction with the A49. The current application has proposed a further passing place to help mitigate against inconvenience of traffic meeting one another. The proposed additional passing bay to the east of the 'double bend' should elevate the need for an HGV to reverse back at this point and further aid movement along the lane both in connection with the proposed development and for all road users. Based upon the information contained within the submitted information and proposed highway works it is considered that, subject to conditions with regards to construction of an additional passing place on Painsbrook Lane and on site access, parking, loading, unloading and turning attached to any approval notice subsequently issued that on public highways and transportation the application is acceptable.
- 6.4.4 On public highway and transportation issues the application is considered to comply with the requirements of policy CS6 of the Shropshire Core Strategy and Policy MD2 of the SAMDev and the considerations of the National Planning Policy Framework on this matter,
- 6.5 **Ecology**
- 6.5.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Therefore the application has been considered by the Council's Ecologist and Natural England.
- 6.5.2 The NPPF in paragraph 174 indicates: The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures
- 6.5.3 Paragraph 179 indicates: To minimise impacts on biodiversity and geo-diversity, planning policies should promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.
- 6.5.4 The SAMDev Plan policy MD12 states: In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and

restoration will be achieved by:

Ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following:

- i. the special qualities of the Shropshire Hills AONB;
- ii. locally designated biodiversity and geological sites;
- iii. priority species;
- iv. priority habitats
- v. important woodlands, trees and hedges;
- vi. ecological networks
- vii. geological assets;
- viii. visual amenity;
- ix. landscape character and local distinctiveness.

will only be permitted if it can be clearly demonstrated that:

a) there is no satisfactory alternative means of avoiding such impacts through redesign

or by re-locating on an alternative site and;

b) the social or economic benefits of the proposal outweigh the harm to the asset.

In all cases, a hierarchy of mitigation then compensation measures will be sought

6.5.5 The Environmental statement in support of the application includes reference to an ecology assessment which assesses surrounding biodiversity and recommends further enhancements such as native tree and hedgerow plantings.

- 6.5.6 SC Ecology have responded to the application indicating no objections subject to conditions being attached to any approval notice subsequently issued. The response welcomes the installation on site of air scrubbing units fitted to each of the two new buildings and one added to the existing poultry unit adjacent to the new build site. (To consume, treat and process ammonia released from birds within the buildings, before it escapes into the atmosphere). The response also refers to a holding water tank shown for the existing building scrubber, which would be shared with one of the proposed new buildings. With regards to ranging areas, the ammonia and odour report have been amended to show ranging areas in accordance with where the pop holes are to be located. Ammonia emissions and nitrogen deposition upon sensitive sites has been assessed in a report on the Modelling of the Dispersion and Deposition of Ammonia from the existing and proposed free range egg laying chicken houses and the impact of proposed mitigation measures at Painsbrook Farm, by AS Modelling & Data, dated 27th July 2022 (submitted 23 January 2023). The following BAT measures are proposed: ammonia scrubber retro-fitted to the existing free range egg building at Painsbrook Farm, ammonia scrubbers fitted on the two proposed free range egg buildings at Painsbrook Farm. Landscaping includes additional native tree and species-rich native hedgerow planting which is welcomed. Recommendations contained within the EclA by Churton Ecology dated 9 May 2021 regarding the fencing of hedgerows (a priority UK habitat) are not shown on any plans and therefore the SC Ecology response recommends a condition to be attached to any approval notice subsequently issued in order to ensure appropriate fencing is erected in accordance to protect these necessary and important features. The response from

SC Ecology also recommends conditions to any approval notice with regards to installation operation and maintenance of the air scrubbers.

- 6.5.6 Following Stage 1 screening, Shropshire Council has concluded that the proposed development is likely to cause significant effects on the Midlands Meres and Mosses Phase 1 and 2 Ramsar through the listed pathways detailed in the Habitats Regulations Assessment,(HRA). Shropshire Council Ecology has carried out an appropriate assessment of the project, considering further information as received. The Assessment concludes that with the imposition of mitigation measures as detailed in this HRA, the proposed works under planning application reference 22/03828/EIA will not adversely affect the integrity of the Midlands Meres and Mosses Phase 1 or 2 Ramsar.
- 6.5.7 In consideration of the comments received from SC Ecology, detail in relation to ecology and biodiversity matters is considered acceptable as per the above - mentioned discussion with the inclusion of conditions to any approval notice issued, in relation to the air scrubbers and hedgerow fencing as discussed. It is noted that the SC Tree Manager raises no objections. As such the application is considered to comply with Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD7b and MD12 of the SAMDev and the NPPF in relation to biodiversity issues.
- 6.6 **Residential amenity and manure management**
- 6.6.1 The proposed development indicates the total number of additional birds as 64,000. This is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting, (EP), (England and Wales) Regulations (EPR) 2010 and as such the site will be subject to a permit issued and monitored by the Environment Agency. The usual statutory nuisance legislation in relation to these matters as applied by the Council's Regulatory Services is of course still relevant.
- 6.6.2 The applicants Environmental Statement in support of the application indicates that the nearest dwellings to the proposed two poultry sheds are 144 Painsbrook Lane at 330 metres, (owned by the applicants), Heath Farm, The Heath and The Granary, The Heath, both located some 350 metres from the proposed poultry sheds.
- 6.6.3 An odour report forms part of the applicants Environmental Statement and this was carried out in accordance with predicted maximum annual 98th percentile hourly mean odour concentrations at the discrete receptors and concluded that odour emission rates from the existing and proposed poultry houses have been assessed and quantified based upon an emissions model that takes into account the likely internal odour concentrations and ventilation rates. The odour emission rates so obtained have then been used as inputs to an atmospheric dispersion model which calculates odour exposure levels in the surrounding area. The modelling predicts that: at all residential receptors considered, odour levels would be below the Environment Agency's benchmark for moderately offensive odours.
- 6.6.4 Also accompanying the application is an updated noise assessment, this has been produced to update the original noise impact assessment based on updated information to the proposed scheme, in order to address comments raised by the Local Authority. As assessment has been undertaken based on the proposed noise

generating components, and this includes reference to the air scrubbers and their associated fans. The results of the assessment show, whilst considering the context of the assessment (as required by BS 4142:2014) it is deemed that the proposed development will not result in an adverse impact at the noise sensitive receptors. In terms of the increase in traffic movements due to the proposed development. An assessment of noise associated with the HGVs along Painsbrook Lane during the bird removal stage is not considered appropriate as bird removal happens over two nights every 14 months, so it is not a regular occurrence and already occurs for the existing shed. Based on the assessment, it is considered unlikely that the proposed development will result in an adverse noise impact. The applicants noise expert has further clarified that where internal LAFmax levels exceed 45dB more than 10 times a night this is likely to cause sleep disturbance is over-simplistic and if implemented by the Council would shut down the public roads network through much of Shropshire. The issue is much more complicated of course and for this reason the latest (2014) version of British Standard removed 45 dB LAMax as a guideline value for bedrooms at night. The reference to 10 times per night appears to come from the document ProPG which is a non-mandatory guidance document for assessing sites for new housing. This suggested that noise from individual events should not exceed 45 dB LAMax more than 10 times. But this was as a practical guideline for designing new housing where it reasonable to ensure that effects on sleep would be negligible. In planning terms it was set at the Lowest Observed Adverse Effect Level for new buildings. Note Effects on sleep at 45 dB LAMax does not necessarily mean people getting woken up or awakening. Merely that a change in sleep patterns can be observed for participants in lab studies. Generally much higher levels are required to cause awakenings. Furthermore the guideline would apply to regular events rather than one night which occur less than once a year as sleep deprivation is cumulative. The ProPG was not meant to assess the effect of vehicle movements on public roads. Further guidance on max noise levels and sleep was however provided in the Appendix A of the document which quotes from a variety of research papers. For example a study relating to heavy goods vehicles found that: The subjects were exposed to 4, 8, 16 and 64 heavy vehicle pass-bys at both 50 and 60 dB LAMax. The results for the higher (60 dB LAMax) noise level pass-bys showed decreases in the quality of sleep for both 16 and 64 events but there was only a marked deterioration in the reported quality of sleep when subjects were exposed to 64 of the lower noise events (50 dB LAMax). It is accepted that there could be some disturbance but this would be very infrequent and people living close to public roads will obviously be used to some traffic noise.

- 6.6.3 The Council's Regulatory Services in response to the application has indicated that the cumulative impact of the additional plant (air scrubbers) has been assessed and indicates that the plant noise associated with the proposal is not likely to have a significant noise impact on surrounding properties. Predicted LAMax levels associated with night time HGV movements passing residential properties on the access route, have not been provided in the technical note. In the absence of this it is fair to assume that the noise levels and the frequency of movements during bird

removal would be such that it is likely to cause sleep disturbance even with windows shut. Where internal LAFmax levels exceed 45dB more than 10 times a night this is likely to cause sleep disturbance. The existing sheds result in 6 HGV pass-bys each night during bird removal whereas the additional sheds will result in 18 HGV pass-bys each night. Therefore on the nights when the birds are being removed it is likely to result in sleep disturbance at the properties close to the access route, nonetheless, as the technical note highlights this will only occur on 2 nights every 14 months (assuming all sheds are in sync and cleared at the same time). Whilst the impact is infrequent it is something the planning officer should be aware of when considering any cumulative impacts and determining the application.

- 6.6.4 Based on information submitted by the applicants, the Council's Regulatory Services consider odour on site as acceptable and noise generated by the proposed air scrubbers to be to an acceptable level and therefore these will have no detrimental impact on residential amenity. Whilst there will potentially be an impact from road noise and in particular during the bird removal stage, it is noted this only occurs over two nights every 14 months as outlined in paragraph 6.6.3 above. Feed deliveries can also be potentially a noisy activity whilst the feed is being transferred from the feed lorry into the feed silo. This aspect of the development it is recommended is conditioned so as feed deliveries are only delivered to the site during day time hours.
- 6.6.5 Manure disposal and spreading can also have impacts on amenity. Pre-application advice given by the Council in relation to this proposal referred to the need for adequate consideration to manure management
- 6.6.6 Chapter 9 of the Environmental Statement indicates that manure produced on site will be exported to local arable farms. The manure that will be produced on site is a by-product of the proposed operation and any environmental impacts of its storage, management and spreading are an indirect effect which will need to be assessed as part of the EIA. The applicant will require the recipient to ensure they comply with relevant storage and spreading codes of Good Practise. The farm has a manure store with concrete floor which can be used if necessary to hold manure before it is exported. DEFRA NVZ regulations allow some types of solid manure (including poultry manure) to be stored in temporary field heaps. Temporary storage sites will be compliant with the Codes of Good Agricultural Practice for the Protection of Air, Soil and Water. Records will be kept with details of dates and quantities of manure removed and its destination/recipient.
- 6.6.7 Further information in support of the application indicates that manure generated on site will be transferred to Gamber Logistics Ltd who have agreed to purchase the additional poultry manure from the proposed new development. Detail indicates that Gamber Logistics Ltd handles in excess of 80,000 tonnes of poultry manure each year, covering poultry sites throughout Wales, Central and Southern England. Litter that they handle is sold to farms as a replacement for artificial fertiliser, as a feedstock to anaerobic digesters, processed as part of the mushroom compost production business and that they are also involved in doing trial work with a company, investigating it's use as a fuel for biomass burners producing electricity. The litter is sold by FACTS qualified advisors who are

authorised to give nutrient management advice as well as ensuring that all compliance issues associated with organic manures, including, but not limited to CoGAP for Soil, Water and Air are met. Gamber Logistics maintain a full electronic audit trail, which includes details of poultry sites, customers, dates and tonnages. This information is forwarded to poultry site owners/managers for their auditing requirements and is then held on record by Gamber Ltd. They also have a website, www.gamber.co.uk which will provide more details of the service.

- 6.6.8 The Case Officer has informed the applicants via their agent that as the manure is a by-product of the proposed operation and any environmental impacts of its storage, management and spreading would be an indirect effect which will need to be assessed as part of the EIA. Whilst it is acknowledged that poultry manure can be a valuable organic fertilizer, its direct and in-direct impacts need to be assessed, and whilst the ES refers to a 'manure management' chapter, it is considered to lack substantial detail, as what is needed is a meaningful assessment of the environmental effects of the storage and spreading of manure, in particular in relation to **odour, ammonia** and **dust**. There are likely environmental effects arising from this aspect of the proposal, so these need to be assessed irrespective of whether the manure is to be spread within the application site locality or not, with clarification on how it will be processed, whether as part of an AD plant process or in its raw form directly spread to farmland. A request to the applicants agent confirming all the manure being processed at an AD plant received no response. The EIA is considered deficient without this.
- 6.6.9 To date, despite Officer requests no further sufficient information has been forthcoming on this matter. As such the application and the Environmental Statement in support of it is considered deficient on this matter and therefore the application is considered not to comply with Policies CS6 of the Shropshire Core Strategy, Policies MD2 and MD7b of the SAMDev, the NPPF and the Town and County Planning (Environmental Impact Assessment), Regulations 2017 which indicates in Paragraph 25 that further information must be requested if an Environmental Statement is considered incomplete on which basis to reach a reasoned conclusion on the likely significant effects of the development described in the application.
- 6.6.10 Paragraph 5.13 in the applicants Environmental Statement indicates that low energy bulbs are used to reduce electricity usage. External lighting for the proposed buildings shall be designed and positioned to be pointing downwards only and cowed. A very low output dim light will be used above the personnel door of each building for health and safety reasons. To assist and provide safety for vehicle movements, a sensor light will be fitted to the corner of the buildings closest to the feed bins to prevent collision of vehicles into the buildings. The light will be fitted with a time control to remain lit for only 10 minutes, long enough for lorries to fill feed bins.
- 6.6.11 Whilst detail in relation to external lighting in support of the application is considered vague, given the location, this is not considered a significant concern. However it is recommended that a condition with regards to external lighting is attached to any

approval notice issued in order to ensure satisfactory external lighting on site with minimal light pollution onto the surrounding environment. It is noted that reference is made to feed deliveries on site during hours of darkness. It is considered necessary that this activity is also controlled so as deliveries of feeding stuffs are made during day time hours only, owing to the potentially noisy operation, the need for external lighting on site if delivered during darkness as well as impacts on residential amenity owing to traffic movements.

6.612 In relation to residential and amenity issues the application is considered insufficient in detail and thus not in accordance with Policy CS6 of the Shropshire Core Strategy, Policy MD2 of the SAMDev, the National Planning Policy Framework and the Town and County Planning (Environmental Impact Assessment), Regulations 2017 on this matter.

6.7 **Other matters.**

6.7.1 Defence Infrastructure Organisation, (MOD), have responded to the application indicating no objections and this is noted.

6.7.2 It is acknowledged that the application site is classified as Grade 2 agricultural land, (the more productive and versatile agricultural land), however the site is located alongside an existing egg laying unit forming part of the farming enterprise concerned which has diversified its farming business in recent years from dairying to arable, beef production and egg laying. Overall in relation to amount of land concerned forming part of the holding concerned as well as cumulative impacts use of this land for the proposal on balance considered acceptable.

7.0 **CONCLUSION**

7.1 The proposal is for the erection of two free range poultry houses with feed bins and ancillary equipment for the housing of up to 64,000 egg laying birds on site. It is on the basis of this number of birds that this application has been considered. The development is considered significant in scale and will have a significant impact on the local landscape and clearly meets the thresholds of EIA schedule 1 development.

7.2 It is considered that the application lacks sufficient detail on which basis to make a positive recommendation as it is considered the application lacks sufficient detail on potential impacts as a result of manure generated on site. Further clarification is also required in relation to drainage matters. Otherwise on other matters such as visual impact, public highway access and transportation, ecological and scale the application is considered acceptable.

7.3 As such the recommendation is one of refusal as the application falls short of EIA Regulations 2017 and does not comply with Policies CS5, CS6, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2 and MD7b of the SAMDev, the National Planning Policy Framework and the Town and County Planning (Environmental Impact Assessment), Regulations 2017.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

National Planning Policy Framework

SPD Sustainable Design Part 1

RELEVANT PLANNING HISTORY:

NS/03/01020/FUL Change of use of agricultural building to business for retail of saddlery, equestrian and animal equipment with associated parking provision WDN 6th November 2003

NS/03/01149/FUL Change of use of building to retail of saddlery, equestrian and animal equipment to include car parking area CONAPP 30th January 2004

NS/07/00474/FUL Proposed erection of agricultural building CONAPP 11th June 2007

NS/08/01541/FUL Proposed erection of a agricultural building for the housing of cattle CONAPP 13th October 2008

NS/84/00360/FUL Erection of an extension 30' x 45' to existing building for the storage of fertilizer. GRANT

NS/84/00361/FUL Erection of a beef rearing building (30' x 60') . GRANT

NS/87/00536/FUL Erection of cattle building (60' x 90'). GRANT

15/01323/FUL Change of use of agricultural land to a non permanent track for remote controlled cars (for specific events and club use); to include temporary car parking GRANT 3rd June 2015

15/01590/PMBPA Application for Prior Approval under Part3, Class MB of the Town & Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 for the Change of Use from Agricultural Use to Residential REN 24th June 2015

16/01380/PMBPA Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use PAR 2nd June 2016

16/03456/FUL Erection of stable block and construction of manege to include change of use of land to equestrian use GRANT 25th November 2016

16/03606/FUL Erection of an extension to existing Cattle Shed GRANT 26th September 2016

16/05685/PMBPA Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use PPPMBZ 13th March 2017

17/02125/FUL Erection of agricultural building GRANT 29th June 2017

17/03365/DIS Discharge of Conditions 3 (Ecology), 4 (Highways), 5 (Surface water drainage) relating to Planning Permission 16/03456/FUL for the erection of Stable Block and Construction of Manege to include change of use of land to equestrian use. DISAPP 8th November 2018

17/03366/DIS Discharge of Conditions 3 (Landscaping), 4 (External roofing materials) and 5 (Surface water drainage) relating to Planning Permission 17/02125/FUL for the erection of Agricultural Building DISPAR 3rd October 2017

PREAPP/17/00591 Construction of a 32,000 bird free range layer shed, feed bins, ancillary equipment and alterations to access PREAIP 18th December 2017

18/02972/FUL Change of use of agricultural land to a track for remote controlled cars (for specific events and club use) to include car parking GRANT 17th August 2018

18/04465/FUL Erection of free range poultry laying unit (32,000 birds) with 3No. feed bins and ancillary equipment; alterations to existing access GRANT 18th March 2019

19/01978/DIS Discharge of Condition 3 (Landscaping) and 4 (Passing places) relating to Planning Permission 18/04465/FUL DISAPP 24th June 2019

PREAPP/20/00130 Proposed 2no. 24,000 free range bird poultry units PREAIP 21st May 2020

20/05194/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the installation of two 75kW biomass boilers GRANT 9th February 2021

21/03061/FUL Erection of two free range poultry houses with feed bins and ancillary equipment WDN 22nd September 2021

21/05985/EIA Construction of two free range poultry houses with feed bins and ancillary equipment REFUSE 1st April 2022

22/03828/EIA Construction of two free range poultry houses with feed bins and ancillary equipment PDE

NS/02/00709/MIN Use of two existing portal frame buildings for cardboard waste recycling enterprise NOBJ 3rd September 2002

NS/93/00242/PN PRIOR NOTIFICATION FOR THE ERECTION OF A BARN FOR THE STORAGE OF HAY AND STRAW (23.07 M X 15.38M X 6.76M HIGH) PDDEV 26th March 1993

NS/95/00254/FUL ERECTION OF A SILAGE BUILDING APPROXIMATELY 36.57M X 24.38M X 8.38M HIGH CONAPP 27th February 1995

NS/97/00259/FUL ERECTION OF A STABLE BLOCK (15.240 M X 4.725 M X 3.500 M HIGH) CONAPP 15th July 1997

NS/97/00260/FUL ERECTION OF A CONSERVATORY ON REAR ELEVATION OF EXISTING DWELLING CONAPP 21st April 1997

NS/97/00261/FUL ERECTION OF AN EXTENSION TO EXISTING CATTLE BUILDING CONAPP 15th July 1997

Appeal

15/02302/REF Application for Prior Approval under Part3, Class MB of the Town & Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 for the Change of Use from Agricultural Use to Residential DISMIS 23rd November 2015

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGVJG7TDID100>

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

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Simon Jones

Appendices

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Committee and date
Northern Planning Committee
4 th April 2023

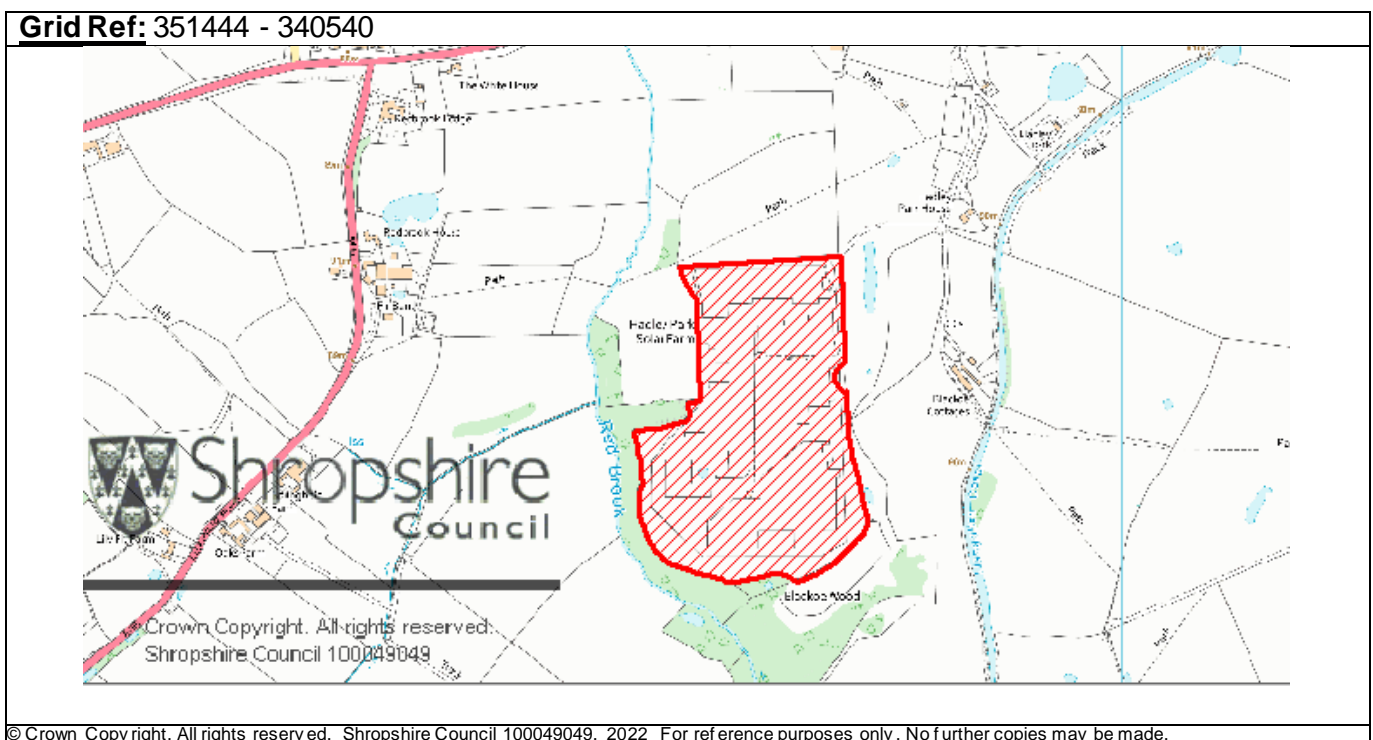
Development Management Report

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

Summary of Application

Application Number: 21/02559/VAR	Parish:	Whitchurch Urban
Proposal: Variation of condition 10 (cessation and removal) attached to permission ref. 18/00693/VAR to enable an extension to the operational life of the solar farm (amended description)		
Site Address: Solar Farm South West Of Hadley Farm Wrexham Road Whitchurch Shropshire		
Applicant: Lightsource SPV 74 Limited		
Case Officer: Kelvin Hall	email: kelvin.hall@shropshire.gov.uk	

Grid Ref: 351444 - 340540



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

REPORT

1.0 THE PROPOSAL

1.1 Planning permission for a solar farm on land at Hadley Farm near Whitchurch was granted in 2014 (ref. 14/02914/FUL). The site commenced generation of electricity at the end of 2015. One of the conditions of the permission (as varied by permission ref. 18/00693/VAR) is that electricity generation ceases by 10/6/2046, i.e. within 30.5 years of commissioning. The current application seeks to extend this period by 10 years to 10/6/2056. No other changes to the conditions of the planning permission are proposed.

2.0 SITE LOCATION/DESCRIPTION

2.1 The solar farm is located at Hadley Farm, approximately 1.5km to the southwest of the edge of Whitchurch. The solar farm covers an area of approximately 10ha and includes 19,596 pv panels in south-facing rows within a perimeter fence. The area is gently undulating, with the site itself relatively flat. Land to the southwest, south and southeast comprises woodland. A field to the northeast is used for horse riding and jumping. Other surrounding land is undeveloped and in agricultural use. Access to the site is from the A525 to the north, via an existing access which leads to a car park serving the horse riding area and a café.

2.2 The nearest residential properties are the dwellings known as Blackoe Cottages, located approximately 170 metres to the east of the solar farm boundary. Other individual properties in the vicinity are located approximately 310 metres to the north and 430 metres to the west. The Shropshire Union Canal runs in a generally north-south orientation to the east of the site. At its nearest point it is 95 metres from the application site. Public rights of way in the vicinity include a footpath to the north (approximately 15 metres from the northern boundary) and the Shropshire Way to the east (approximately 145 metres away). The site is crossed by two sets of overhead power lines.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application relates to land which forms the property of a Member of the Council. The Council's Scheme of Delegation requires that such applications are determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Whitchurch Town Council** No response received.

4.1.2 **Bronington Community Council** (adjacent parish in Wrexham) No response received.

4.1.3 **Canal and River Trust**

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is the following general advice:

Impact on Landscape and Amenity of the Llangollen Canal: The Trust provided comments for the original planning application in August 2014, and highlighted the following:

The Planting Plan shows areas of existing and proposed planting and the Landscape and Visual Assessment has reviewed the impact on the Llangollen Canal. We consider the proposals would be an intervention in a rural landscape. In summer time with trees/hedges in leaf, it should have a limited impact on the canal corridor. However, we do have some concern over the potential impact in winter and would therefore request the hedgeline to the east of the site is doubled in thickness in addition to the infilling of the existing hedge to ensure an appropriate degree of visual buffer is provided across the seasons.

Condition 11 of the subsequent planning permission 14/0219/FUL, and Condition 9 of 18/00693/VAR, required the implementation of the approved landscaping scheme within 12 months, which showed a proposed hedgerow and tree planting along the east boundary.

The Trust would reiterate the importance of the landscaping scheme to safeguarding the canal setting, and in connection with the solar farm operating until 2056, we request that the implementation of the approved landscaping scheme and bolstered eastern boundary is maintained.

4.1.4 **SC Conservation** No comment to make from a Historic Environment perspective.

4.1.5 **SC Drainage** We have no comment from the drainage and flood risk perspective, regarding the Variation of Condition 10 (cessation and removal).

4.1.6 **SC Ecology** No objection.

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition 11 residential properties in the vicinity of the site have been directly notified. No representations have been received.

5.0 **THE MAIN ISSUES**

- Principle of development
- Relevant considerations

6.0 OFFICER APPRAISAL**6.1 Principle of development**

6.1.1 The original planning application for the solar farm stated that pv modules have an operational life of over 30 years, with most panels still working at 80% of the original capacity after their 25 year warranty period. The application proposed a temporary 30 year period based upon the expected life expectancy of the panels. The applicant states that the solar farm is expected to continue to operate efficiently well beyond the current approved 30-year term. Advice to local planning authorities set out in national planning practice guidance states that ground-mounted solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use. The condition limiting the life of the site to 30 years was considered appropriate and reasonable on this basis.

6.1.2 There remains strong support in principle under national and local planning policy for renewable energy development, in particular NPPF Chapter 14 and Core Strategy policy CS8. It is considered that in principle an extension to the current operational period, to 40 years can be supported given that it would ensure that the benefits of the scheme in terms of the generation of renewable energy would continue for a longer period of time; in line with national and local planning policy.

6.2 Relevant considerations

6.2.1 The reason given for the imposition of the 30 year time limit is to ensure that the solar farm development is removed from the site following the end of its operational life or within a reasonable period of time to protect the landscape character of the area. The relevant considerations in relation to the proposal to increase this period to 40 years are discussed below.

6.2.2 Landscape impact and visual effects: The relevant landscape and visual impact considerations in relation to the solar farm were included in the committee reports for applications 14/02914/FUL and 18/00693/VAR, particularly in relation to Core Strategy policies CS6 and CS17. The committee report relating to the original planning application for the solar farm noted that the existing and proposed hedgerow planting would mitigate impacts on landscape character and on visual receptors, and concluded that “in overall terms it is considered that the impact of the proposed solar farm on the character of the local landscape and on visual receptors generally would be limited, and would not be unacceptable particularly given the wider environmental benefits of the proposal”. The applicant has confirmed that the approved landscaping works have been carried out. It is not considered that the current proposal raises any significantly different issues in relation to landscape and visual matters to those previously assessed. It is considered that the renewable energy benefits of the proposal would outweigh the limited adverse impact on landscape and visual character in the area.

6.2.3 Other benefits: In addition to the continuation of the renewable energy benefits as referred to above, the proposal would extend the timeframe of the biodiversity enhancements that were approved under the existing planning permission and this

includes the provision of wildflower meadow areas, bat and bird boxes, and badger access gates, along with the landscaping measures which include new hedgerow planting. The agreed scheme includes the requirement to undertake maintenance and management of the works for a period of 25 years. A condition can be imposed to require that this also applies to the current proposal to extend the life of the solar farm. The retention of the ecological enhancements for a longer period is a further benefit of the proposal.

6.2.4 It is not considered that the proposal raises any further significant land use issues.

7.0 **CONCLUSION**

7.1 The solar farm at Hadley Farm has been permitted for a temporary period following which there is a requirement that it is removed from the land. The lifespan of the panels is expected to extend beyond the permitted 30 year period. The proposed extension of this operational life by ten years would elongate the period of time that the solar farm remains within the landscape, and also extend the time before which the land would be returned to its previous use as open agricultural land. Nevertheless it is considered that these negative elements of the proposal are outweighed by the benefits of the proposal in terms of the continuation of the renewable energy production at the site and the retention of its biodiversity value. It is therefore considered that the proposal is in accordance with the Development Plan and national planning policy, including Core Strategy policies CS5, CS6 and CS17; and SAMDev Plan policies MD2 and MD12. Subject to the imposition of the conditions listed in Appendix 1 below it is recommended that planning permission is granted.

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

9. 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.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev Plan Policies:

CS5 - Countryside and Greenbelt
 CS6 - Sustainable Design and Development Principles
 CS8 - Facilities, Services and Infrastructure Provision
 CS17 - Environmental Networks
 MD2 - Sustainable Design
 MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

14/01807/SCR Proposed solar farm EAN 4th July 2014
 14/02914/FUL Installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras. GRANT 24th October 2014
 15/02173/DIS Discharge of conditions 4, 5, 6, 7 and 8 attached to planning permission
 14/02914/FUL DISPAR 30th June 2015
 16/03515/AMP Non Material Amendment attached to Planning Permission 14/02914/FUL for the installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras GRANT 8th September 2016
 18/00693/VAR Variation of Condition no 2 (approved drawings) and 9 (external colour of the buildings) attached to planning permission ref 14/02914/FUL to regularise the change in the colour of two inverters GRANT 30th May 2018

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QTD8OVTDFJ00>

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

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Thomas Biggins Cllr Peggy Mullock

Appendices APPENDIX 1 - Conditions

APPENDIX 1 - Conditions**STANDARD CONDITION(S)**

1. The development shall be carried out strictly in accordance with the following approved plans and drawings.

- drawing no. 10.5 Overall Layout, Date 22/12/15
- Camera Elevation Design, Date 13/4/16
- Access Gate Elevation Design, Date 13/4/16
- Panels Elevation Design, Date 13/4/16
- FIG 1, UA007147-06 Planting Plan, Date 30/11/15
- 03 1/1, Rev. Drainage System Proposed Layout, Date 10/9/15
- 3.15.2, Security System Layout, Date 22/12/15
- 3.24.2, Plans and elevations Sheet 1/3 Date, 22/2/16
- 3.24.5 rev. 01, Plans and elevations Sheet 2/3, Date 17/1/2018
- 3.24.2, Plans and elevations Sheet 3/3, Date 22/2/16
- Fence elevation design, Date 22/2/16
- 3.24.3.2, Rev. 01 Foundations and footings, Date 4/8/16
- HDF_02 Site location plan, Date 1/6/14

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

2. Work shall be carried out strictly in accordance with the Reasonable Avoidance Measures (RAMS) Method Statement for Great Crested Newts by Hyder dated October 2014.

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

3. The development shall be carried out in accordance with the approved Written Scheme of Investigation (WSI) by Clwyd-Powys Archaeological Trust.

Reason: The site is known to hold archaeological interest.

4. The approved sustainable urban drainage scheme, comprising the documents set out below, shall be adhered to throughout the lifetime of the development:

- Drainage Strategy report dated 15th May 2015;
- drawings 'Drainage Strategy Plan' no. 0100 01;
- drawings 'Existing Contours and Indicative Overland Flow Paths' no. 0200 01.

Reason: To ensure the appropriate implementation and management of the surface water drainage scheme.

5. The badger protection measures set out in the following approved documents shall be adhered to throughout the lifetime of the development:

- Pre-Construction Badger Survey dated May 2015;
- addendum dated 30th June 2015 prepared by Hyder Consulting (UK) Ltd.;
- drawing Fig 1 (Badger Sett Location (Confidential)) ref. UA007147-01;
- drawing Fig 1 (Planting Plan) ref. UA007147-04;
- drawing Fig 2 (Biodiversity Plan) ref. UA007147-02.

Reason: To ensure the protection of badgers.

6. Within two months of the date of this planning permission a landscape and biodiversity management plan shall be submitted in writing for the approval of the Local Planning Authority. The plan shall include details of the biodiversity enhancement measures proposed for the site, and set out the management regime to develop and maintain biodiversity throughout the operational life of the development.

Reason: To ensure the protection and enhancement of species and habitats on site, in accordance with Core Strategy policies CS6 and CS17 and SAMDev Plan policy MD12.

7. The external colour of inverters no. 4 and 5, as shown on Drawing 3.24.5 Elevations and Plans, shall be white. All other buildings shall be RAL 6005 Moss Green.

Reason: To maintain an acceptable appearance in order to protect the visual character of the area.

8. The security fence and CCTV cameras, as detailed on the approved plans entitled Camera Elevation Design and Fence Elevation Design, shall be supported by wooden poles. Any replacement poles required shall be replaced like for like with wooden poles for the lifetime of the development.

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

9. The landscape planting as shown on approved drawing Fig.1 (Planting Plan) shall be completed within 12 months of the date of this planning permission. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

10. Within 6 months of the cessation of energy generation from the site, or by 10/6/2056, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site, and the land shall be reinstated to its former agricultural use.

Reason: Notification was given to the local planning authority by Lightsource Renewable Energy Holdings Ltd. on 12/1/2016 that the date of completion of construction was 10/12/2015. This condition is to ensure that the solar farm development is removed from the site following the end of its approved operational life or once no longer required in order to protect the landscape character of the area.

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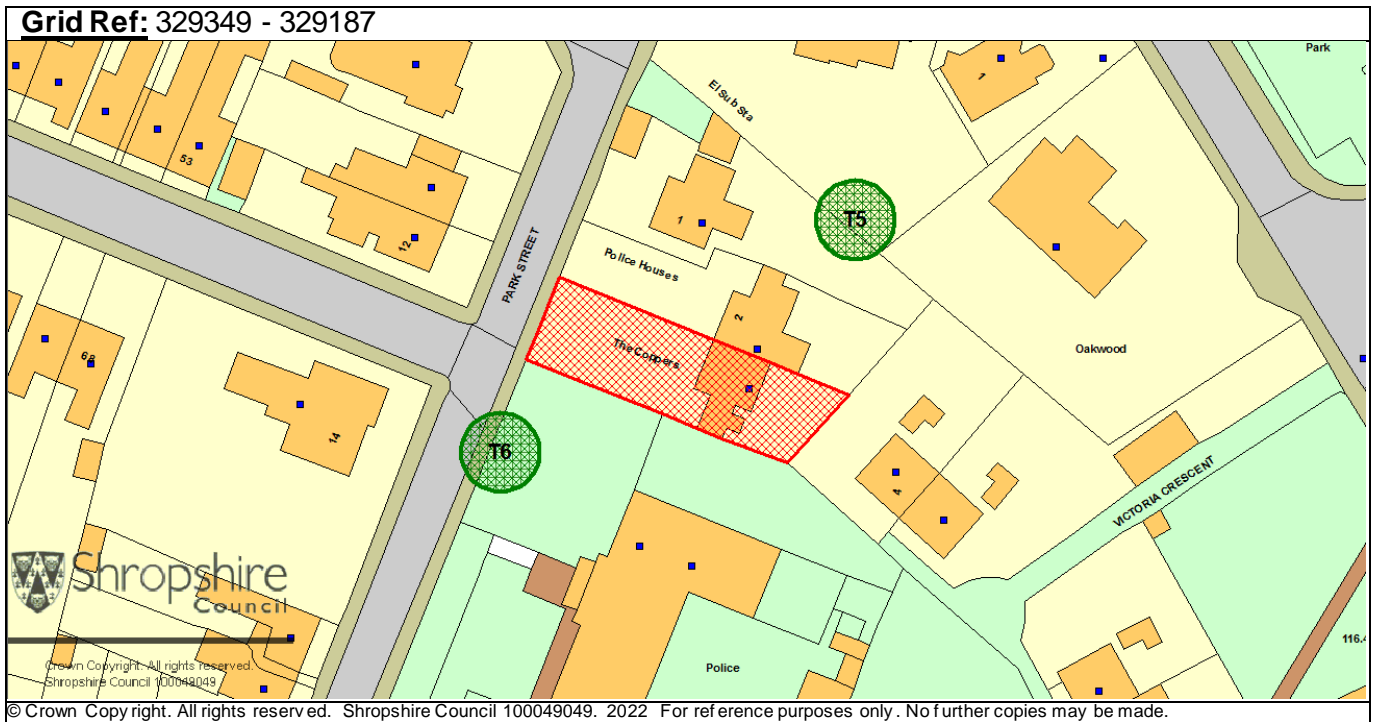
Committee and date
 Northern Planning Committee
 4th April 2023

Development Management Report

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

Summary of Application

Application Number: 23/00122/FUL	Parish:	Oswestry Town
Proposal: Erection of a single detached garage		
Site Address: The Coppers Park Street Oswestry Shropshire SY11 2HF		
Applicant: Mr Stephen Charmley		
Case Officer: Melanie Williams	email: melanie.williams@shropshire.gov.uk	



Recommendation:- Approval subject to the conditions as set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 Erection of a single detached garage.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application property is a semi-detached dwelling located within the market town of Oswestry. The property is constructed of red/brown facing brick with a grey tile roof and is set back from the road.

2.2 The site of the garage is located on land to the front of the main dwelling within the domestic curtilage. Currently the site is occupied by 2 industrial units. There are neighbouring properties to the north and opposite on Park Street.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The applicant is the elected Shropshire Councillor for the village of Whittington. Therefore in line with the Scheme of Delegation the application is required to be determined by the Northern Planning Committee.

4.0 Community Representations

- Consultee Comments
None received

- Public Comments
Oswestry Town Council:
Neutral

Councillors offered no observation on the application as submitted but noted the withdrawn application which sought retrospective approval for the existing storage facilities. It was resolved to request that as a condition of planning that the current containers, for which there is no approval, are removed within 3 months of permission being granted. If permission is not granted Shropshire Council are asked to continue with action in relation to the existing storage facilities.

In addition to the above, 2 letters of **objection** have been received outlining a number of concerns including the following:

- location of garage
- use of the garage

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Impact on neighbouring amenity
- Current arrangement on site

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application is considered in the light of Core Strategy Policies CS6 (Sustainable Design and Development) and SAMDev Policy MD2 (Sustainable Design).
- 6.1.2 CS6 requires development to be designed to a high quality using sustainable design principles. It also seeks to ensure that development is appropriate in scale, density, pattern and design to its local context and has regard to residential and local amenity.
- 6.1.3 Policy MD2 of the Council's adopted SAMDev Plan similarly requires development to contribute to and respect local distinctive or valued character and existing amenity value.
- 6.1.4 On the basis of the above, it is considered by Officers that there is no objection to the principle of the construction of extensions/alterations/outbuildings to and at the property. Other issues relating to scale, design, impact on neighbours etc will be discussed further in this report.

6.2 Siting, scale and visual impact

- 6.2.1 The proposal is for the erection of a single storey garage to the front of the main property with double doorway facing the main property and single side entrance adjacent to the access. The building will be constructed with facing brick and concrete tile to match the existing dwelling.
- 6.2.2 Overall it is considered that the proposed building is appropriate in its design and scale for its intended use. Therefore the development is in accordance with policy CS6 of the adopted Core Strategy and policy MD2 of the adopted SAMDev plan.

6.3 Impact on neighbouring amenity

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The garage is to be constructed at the frontage of the property and will be visible from the surrounding street scene however it will be single storey and has a relatively small footprint. In addition there is a mature hedgerow boundary along the frontage which would help screen the proposal. It is also noted that a neighbouring property has a garage to the frontage of very similar design and size.
- 6.3.3 Therefore having regard to the orientation, street scene and distance away from neighbouring properties it is felt that the development will not result in any significant detrimental impact from causing an overbearing impact, loss of light or result in any noise disturbance.

6.4 Current arrangement on site

- 6.4.1 Currently the site of the proposed garage is occupied by 2 storage containers, one of which is a large blue shipping container and both are quite industrial in

appearance which is not in keeping with the residential locality. A previous application was submitted for these units but was withdrawn following advice that they would be unacceptable sited at the property and should be moved to a more industrial setting. As such it is considered appropriate for a condition to be attached to any decision notice requesting removal of these units within 3 months of the granting of this planning approval, should members be mindful to support.

7.0 CONCLUSION

On balance the garage is considered to be acceptable within the context of the overall street-scene and the works are not considered to result in any significant implications for the residential amenity of existing properties. Therefore the scheme is deemed to comply with the relevant development plan policy framework laid down within CS6 of the Core Strategy and SAMDev Policy MD2 and is recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

recommendation.

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

20/01426/FUL Erection of a two storey side extension and change of use of strip of land to residential GRANT 25th June 2020

20/02544/DIS Discharge of Condition 3 (Materials) of planning permission 20/01426/FUL DISAPP 13th July 2020

22/04482/FUL Application under section 73A of Town and Country Planning Act 1990 for the siting of 2No. storage units WDN 22nd December 2022

23/00122/FUL Erection of a single detached garage PCO

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROBPZFTD0BN00>

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

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Duncan Kerr

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, drawings and documents as listed in Schedule 1 below.

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

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

3. The external materials shall match in colour, form and texture those of the existing dwelling.

Reason: To ensure that the works harmonise with the existing development.

4. The 2x storage containers currently occupying the site shall be removed off the site within 3 months following the date of this planning approval.

Reason: To safeguard residential and / or visual amenities.

-



Committee and date

Northern Planning Committee

4th April 2023

SCHEDULE OF APPEALS AS AT COMMITTEE (April 4th 2023)

LPA reference	22/01679/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Victor Simpson
Proposal	Outline planning application (access and layout for consideration) for the erection of 7 dwellings to include the removal of trees
Location	Clubhouse Farm, Church Street, Hinstock
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03327/ADV
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Paul Keating
Proposal	Erect and display 1 no. externally illuminated fascia sign, 1 no. hanging sign, 1 no. LED digital screen located internally within store & glass manifestation
Location	30 - 32 High Street, Whitchurch
Date of appeal	23.01.2023
Appeal method	Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03082/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs D Maby
Proposal	Erection of an ancillary domestic outbuilding
Location	Old Meadow Cottage, Newtown, Wem
Date of appeal	10.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03019/VAR
Appeal against	Appeal Against Conditions Imposed
Committee or Del. Decision	Delegated Decision
Appellant	Mr Ozturk
Proposal	Variation of Condition No. 6 attached to planning permission 18/05121/FUL dated 21 December 2018 to allow customer deliveries from 12:00 to 02:00
Location	Flaming Great 182 Monkmoor Road Shrewsbury
Date of appeal	09.12.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01522/LBC
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Kuschnir
Proposal	Works to facilitate the erection of second storey to former cold store and two storey warehouse, installation of two rooflights to rear roofline, extension at first floor with formation of roof terrace
Location	Flat 46 Mardol Shrewsbury
Date of appeal	27.10.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02357/LBC
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	John Kuschnir
Proposal	Construction of first floor rear extension, insertion of patio doors, formation of roof terrace and Installation of two roof lights
Location	Flat 46 Mardol Shrewsbury
Date of appeal	22.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02424/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Kuschnir
Proposal	Construction of first floor rear extension, insertion of patio doors, formation of roof terrace and installation of two rooflights
Location	Flat 46 Mardol Shrewsbury
Date of appeal	20.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Decided

LPA reference	22/02183/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Jon Scarratt
Proposal	Erection of two storey rear extension
Location	Laurel Bank, Painters Lane, Fauls, Whitchurch
Date of appeal	22.09.2022
Appeal method	Fast Track
Date site visit	09.01.2023
Date of appeal decision	21.02.2023
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/03263/ADV
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Alight Media Ltd
Proposal	Installation of one wall mounted digital display unit
Location	Chase Tyre Specialists Ltd Smithfield Road Shrewsbury
Date of appeal	02.10.2022
Appeal method	Commercial
Date site visit	17.01.2023
Date of appeal decision	23.02.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/05743/OUT
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Senescura Ltd
Proposal	A Continuing Care Community (Use class C2) comprising up to 182 units of Extra Care and Close Care accommodation with graduated care provision in the form of lodges and apartments; a 75 bed Nursing home and Dementia unit; an amenities building providing supporting care facilities, treatment / therapy rooms, fitness pool, restaurant, small shop and site management facilities, with open space, communal gardens, nature trails, landscaping, car parking and supporting infrastructure.
Location	Land Off Ellesmere Road Hencote Shrewsbury
Date of appeal	05.09.2022
Appeal method	Inquiry
Date site visit	25.01.2023
Date of appeal decision	02.03.2023
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/03519/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr and Mrs G and R C Price
Proposal	Application under Section 73a of the Town and Country Planning Act for the retrospective change of use of holiday let to an unrestricted residential dwelling
Location	5 Wood Terrace Myddlewood Myddle
Date of appeal	11.10.2022
Appeal method	Written Representations
Date site visit	03.03.2023
Date of appeal decision	21.03.2023
Costs awarded	
Appeal decision	DISMISSED



Appeal Decision

Site visit made on 9 January 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/L3245/D/22/3307459

Laurel Bank, Painters Lane, Fauls, Whitchurch, Shropshire SY13 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr J. Scarratt against the decision of Shropshire Council.
 - The application ref. 22/02183/FUL, dated 6 May 2022, was refused by notice dated 7 July 2022.
 - The development proposed is a two storey rear house extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension at Laurel Bank, Painters Lane, Fauls, Whitchurch, Shropshire SY13 2AT in accordance with the terms of the application ref. 22/02183/FUL, dated 6 May 2022, subject to the conditions below.

Preliminary matters

2. There is an extensive planning history to Laurel Bank, a property which has been successively altered. This appeal follows an unsuccessful appeal in 2018 for a different scheme.¹ Each proposal must nevertheless be determined on its merits, in accordance with the development plan unless material considerations indicate otherwise.

Main issues

3. The main issues are (i) whether Laurel Bank should be treated as a non-designated heritage asset, (ii) the effect of the proposal on housing affordability, (iii) the effect of the proposal on local character and appearance, and (iv) whether the proposal would suitably safeguard bats.

Reasons

Non-designated heritage asset ('NDHA')

4. There is little substantive evidence of the history to Laurel Bank. Elements of the property, however, likely date from the Victorian era. That is judging by the quality of certain bricks in elements nearest Painters Lane, the use of Flemish bond with accentuated headers, and the presence of a sawtooth cornice. Those details are, however, confined to a modest proportion of the property. There are many nearby properties ostensibly of similar era, construction and design, including nos. 1 and 2 Painters Lane, the Patch broadly opposite, and Briarleigh closer to the Church. A significant proportion of dwellings across the country are of comparable age and aesthetic. As with Laurel Bank, the foregoing

¹ Ref. APP/L3245/D/18/3197898 (related to application Ref 17/05750/FUL).

properties have been much altered over time. The Patch, for example, has been rendered, painted and re-roofed at some point.

- Alterations over time do not inherently justify development that would further erode significance. Nevertheless in origin, and having been altered subsequently, Laurel Bank is commensurate with prevailing architecture here and that which is commonplace elsewhere. There is nothing to suggest that Laurel Bank is significant in other respects, for example in possessing any clear associative value as to local history. I also note that the property has not, I am told, previously been identified as an NDHA or included in the local historic environment record.² In short, Laurel Bank is not of a degree of historic interest meriting its treatments as a NDHA. The proposal should not therefore be held up against policy MD13 of the Site Allocations and Management of Development Plan (adopted December 2015, 'SAMDev') in that respect.

Housing affordability

- SAMDev policy MD7a states 'in order to protect the long term affordability of single plot exception dwellings, they will be subject to size restrictions...'. Whilst that element applies only to exception sites, supporting paragraph 3.62 to policy MD7a, and paragraph 2.20 of the Council's 'Type and Affordability of Housing' Supplementary Planning Document (adopted September 2012, the 'SPD'), explain that there is a trend towards an increasing size of dwellings in the countryside. The SPD explains how that trend exacerbates housing affordability, and therefore guides that 'it is also important to maintain and provide an appropriate stock of smaller, lower cost, market dwellings'.
- The previous inspector's decision states that Laurel Bank originated as a property of 67m² floorspace, which by then had increased to about 203m². In this instance an extension with a footprint of 35.5 m², or floorspace of some 60 m², is proposed. That is a significant change likely to elevate market value. Albeit that there is limited information before me in this respect, even at 203m² Laurel Bank could not rationally be described as 'smaller, lower cost'. Many houses at Fauls Green are smaller, as are many, if not most, nationally. The proposal would therefore not further skew the mix of dwellings relative to the objectives of the SPD.

Character and appearance

- Laurel Bank falls towards the fringe of Fauls. Fauls comprises a scattering of properties, roughly set around the grade II listed Church of Immanuel. Both Fauls and Painters Lane have a semi-rural character. Aside from at Hawkstone Terrace, properties tend to be detached and set within variably-sized and irregular parcels of land. That results in properties sitting comfortably within their context, as opposed to a more regular arrangement. Fauls is surrounded by a staunchly rural landscape dotted with farms. It has developed incrementally over many centuries, noting that grade II listed Moat House likely dates from the sixteenth century.
- Painters Lane is a private track and public footpath arcing around part of the periphery of Fauls. Albeit varying, it is relatively enclosed by established planting and properties' boundary features. As is the case of Laurel Bank, the

² Noting Planning Practice Guidance ref. 18a-040-20190723.

plots of properties in the area tend to be marked by substantial hedges. As noted above, there are historic properties about, many of which have been altered over time. There are also more recent properties, a number of which fall around Painters Lane further north-eastwards than Laurel Bank. Having grown up organically, there is limited coherence in terms of the scale or layout of properties, though most are essentially traditional in form and materials.

10. The proposal would represent a significant addition to the property. It would result in Laurel Bank becoming one of the larger properties here. The resultant form of the dwelling would be somewhat complex, having a number of wings. I acknowledge that the previous inspector dismissed a scheme for an extension on the basis that it would adversely affect the existing form of the property and character of its surroundings. There comes a point where the cumulative extension of a property crosses a threshold and entails detrimental effects. However that would not occur in this instance for 5 principal reasons.
11. Firstly the semi-rural character to Fauls results principally from the irregular layout of properties in variable plots, along with mature gardens and established planting. Those features would not be directly affected by the proposal, nor would any views looking in a northwards arc around the settlement (where the connection with the countryside is most clearly felt). Secondly, in terms of footprint, the proposal would result in a property broadly comparable with others nearby.³ Thirdly, as also noted by the previous inspector, Laurel Bank falls within one of the larger plots in the locality. The resultant ratio of garden space to footprint would not be discordant.
12. Fourthly the proposal would respect the existing height, proportions and architectural detailing of Laurel Bank as it stands. Consistent materials could be secured via condition. Fifthly, the proposed extension would be set behind the existing form of Laurel Bank. It would, in effect, represent a rear outrigger largely hidden from view from Painters Lane (or from public vantage points elsewhere). Glimpsed views might be possible, however any views would be only partial and heavily filtered by boundary features and planting. Unlike the 2018 scheme, the proposal would not visually unbalance the appearance of the property, nor adversely affect the prevailing character of the area to any appreciable degree.⁴
13. I therefore conclude that the proposal would accord with the relevant provisions of policy CS6 of the Shropshire Core Strategy (adopted February 2011, the 'CS') and SAMDev policy MD2. In summary, and amongst other things, those provision seek to ensure that development integrates appropriately with the character of its surroundings, an objective shared with paragraph 130 of the National Planning Policy Framework ('NPPF').

Bats

14. There is a duty on me in respect of conserving and enhancing biodiversity (section 40 of the Natural Environment and Rural Communities Act 2006 as amended, 'NERC'). All species of bats are protected.⁵ The Council's decision

³ Including Orchard Cottage, Oak Lodge, The Bungalow and Freshfields along Painters Lane.

⁴ Inherent in that reasoning, notwithstanding paragraphs 4 and 5 of this decision, it would also not adversely affect any historic interest.

⁵ Schedule 2 to the Conservation of Habitats and Species Regulations 2017 and schedule 5 to the Wildlife and Countryside Act 1981 as amended.

notice of 7 July 2022 states that the proposal requires 'a bat survey in accordance with the 2016 Bat Conservation Trust: Good Practice Guidelines', and that no survey had been submitted. I understand, however, that a Preliminary Roost Assessment ('PRA') was submitted to the Council on 5 July 2022. Insofar as the merits of the proposal are concerned, the effects of a scheme on protected species must be established, and the onus is principally on an applicant to substantiate their case.⁶

15. The PRA applies the Guidelines referenced above. There is no indication that the site falls within an area of particular value to bats. There are no designated wildlife areas within 1k of the site, albeit that surroundings are characterised by various types of habitat. Given that much of Laurel Bank has been recently constructed or renovated, the PRA identified the site as having overall 'negligible potential value for bats'.⁷ Observations in the PRA accord with mine, noting that the property and its grounds were in good order at the time of my visit. Moreover the majority of the ground area proposed for the extension is either hardsurfaced or maintained as lawn (rather than representing features upon which bats rely for roosting, sustenance or commuting).
16. Consequently, and given protections in any event under section 9 of the NERC, I conclude that the proposal would not result in undue effects to bats. Subject to a condition requiring adherence to the measures recommended in the PRA, the proposal would accord with the expectations of statute, the relevant provisions of CS policy CS17 and SAMDev policy MD12. In summary, and in common with NPPF paragraph 174. d), those provisions seek to minimise effects on, and to seek to enhance, biodiversity.

Other matters

17. The extension would include four windows facing roughly towards Cape House. A sense of privacy is, in large part, dependent on perception. However there are no first floor windows within the nearest elevation of Cape House. The boundary between the plots of Laurel Bank and Cape House is demarcated, in part, by a substantial hedge. Given the prevailing nature of the area described above, there is every likelihood that would remain broadly similar (regardless of any planning condition or ownership).
18. Moreover there would be a comparable, if not greater, separation between the proposed extension Cape House as exists between the flank elevations of neighbouring properties in the surrounding area. Undue effects to privacy would not therefore result, and any implications of noise or disturbance during construction would be temporary.⁸ Whilst I note reference has been made to poor drainage, there is no indication that Laurel Bank falls in an area vulnerable to flooding or a critical drainage area. In any event development must comply with the provisions of Building Regulations 2010 as amended.⁹ No other matters therefore alter the foregoing reasoning, namely that the development proposed would be acceptable.

⁶ Government Circular 06/2005, paragraph 99, section 62(3) of the Town and Country Planning Act 1990 as amended.

⁷ Acknowledging that the porch, which would be unaffected by the proposal, may have some greater potential.

⁸ With provision elsewhere to address noise amounting to a statutory nuisance (under the Environmental Protection Act 1990 as amended).

⁹ To which Approved Document H, Drainage and waste disposal, relates.

Conditions

19. In addition to requiring commencement within the relevant statutory period, I have imposed conditions specifying compliance with the supporting plans and that matching materials shall be used. Those conditions are necessary to ensure that the development is implemented as assessed above. To minimise effects upon, and to make provision for, biodiversity I have additionally imposed condition 4 referencing the approach in the PRA. Suggestions advanced by the Council in respect of lighting would, however, be excessive given the limited value of the site to bats. In imposing conditions I have had regard to the NPPF, the Planning Practice Guidance and relevant statute. Accordingly I have amended the wording of conditions put to me without altering their fundamental aims.

Conclusion

20. For the above reasons, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Tom Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plan entitled 'Proposed two storey rear extensions' (also referenced as drawing No. 'Planning 1/2022 Resubmission').
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The development hereby permitted shall not be occupied until at least one bat box or brick and one artificial bird nest have been installed in suitable locations for their intended use, including in respect of orientation, height, shade, lighting and flightpaths, and made available for use (in line with section 3.4 and Appendix 4 of the supporting Preliminary Roost Assessment undertaken by the Bat Surveyor, April 2022, and, as appropriate, the Bat Conservation Trust's Guidance Note 08/18 or successor document). Once installed and made available for use, the bat box or brick and artificial bird nest shall thereafter be maintained as such.

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Appeal Decision

Site visit made on 17 January 2023

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23rd February 2023

Appeal Ref: APP/L3245/Z/22/3308107

**Vehicle Repair Workshop, Smithfield Road, Shrewsbury, Shropshire
SY1 1PW**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Graeme Hughes of Alight Media Limited against the decision of Shropshire Council.
 - The application Ref 22/03263/ADV, dated 13 July 2022, was refused by notice dated 7 September 2022.
 - The advertisement proposed is installation of a 1 x 48 sheet gable mounted digital display unit measuring 6.2 m wide and 3.2 m high, and comprising pressed metal frame with sealed LED screen.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed advertisement on amenity having regard to the character and appearance of the area and streetscene. The Council has raised no objections regarding the effect on public safety. Although Smithfield Road is a busy main highway I see no reason to disagree, subject to the imposition of conditions to control the movement and transition of images as suggested by the Highway Authority.

Reasons

3. The proposed digital display unit would be mounted on a wall of a vehicle repair shop. It would face Smithfield Road and the River Severn at an angle, allowing the advertisement to be seen when approached from the west. The site is within the Shrewsbury Town Centre Conservation Area, with the nearest listed buildings being Nos.45-63 Mardol.
4. The approach to the appeal site from the west is marked by the pale cream coloured building of the Grade II listed Shrewsbury Hotel and then a terrace of white painted buildings, including the Grade II listed building of No.45 Mardol. The majority of these buildings have retail and commercial premises at ground floor level. The wall on which the advertisement would be sited is also white, with applied signage providing details of the 'Car Care Centre'. As the wall is angled towards the highway it is prominent in the street scene. The frontage of the Car Care Centre is dominated by mainly blue signage, with the neighbouring property being the blue coloured building of the Salopian Hotel.

In view of the separation distances, I consider that the proposed sign would cause no significant harm to the setting of the listed buildings in the immediate vicinity.

5. The conservation area is based upon the historic core of the city and includes properties around the large loop meander of the River Severn. The River Severn is adjacent to the opposite side of Smithfield Road from the appeal site within an area known as Mardol Quay. Although the area is generally commercial in nature there are some riverside trees and a small riverside public park with a large sculpture known as the Quantum Leap. Lamp standards and traffic signage are also present in the street scene. The open character of the area referred to by the appellant is largely a result of the lack of development alongside the River Severn at this point.
6. The proposed digital advertisement would be seen from the public park and in conjunction with the entrance to the historic street of Mardol when approached from the west. It would appear out of character, being within an area of older established buildings of varied ages and design which generally lacks any significant modern development. The advertisement would be a prominent addition because of its size, location and illuminated digital display. It would add to existing signage in the area, and because of its adverse visual impact, would fail to make a positive contribution to the local character and distinctiveness of the area. Having regard to s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I find that the proposed advertisement would fail to preserve or enhance the character or appearance of the Shrewsbury Conservation Area.

Other Matters

7. The appellant has referred to examples of other digital advertisements, including at Rhyl and Stockport. However, the particular site circumstances of those advertisements are different compared to those at the appeal site and insufficient reason to justify allowing the appeal before me.
8. Although existing signage at the appeal site would be removed, the introduction of a digital advertisement would not be the only means of improving the appearance of the site.
9. Reference is made to Council proposals under the 'Shrewsbury Big Town Plan' but no indication has been provided to demonstrate that the immediate setting of the appeal site would be affected. In view of the harm to amenity of the proposed advertisement it would not constitute sustainable development, as defined in the National Planning Policy Framework.
10. The Council has cited policies MD2 and MD13 of the Shropshire Site Allocations and Management of Development Plan and policies CS6 and CS17 of the Shropshire Local Development Framework Core Strategy in its reasons for refusal. The Regulations require that decisions are made only in the interests of amenity and public safety. Consequently, although I have taken these development plan policies into account as a material consideration, they have not been a decisive factor in my determination of this appeal.

Conclusion

11. Although the proposal would have no significant adverse effect upon public safety I have found above that it would harm the amenity of the area and

would fail to preserve the character and appearance of the Shrewsbury Conservation Area. I have taken all other matters raised into account, including the Planning Practice Guidance Notes and National Planning Policy Framework regarding advertisements. However, for the reasons given above the appeal is dismissed.

Martin H Seddon

INSPECTOR

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Appeal Decision

Inquiry held on 24 January 2023- 26 January 2023.

Site visit made on 25 January 2023

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2023

Appeal Ref: APP/L3245/W/22/3306381

Land off Ellesmere Road, Hencote, Shrewsbury, SY4 3AA.

- 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 Senescura Ltd against the decision of Shropshire Council.
 - The application Ref 21/05743/OUT, dated 7 December 2021, was refused by notice dated 14 April 2022.
 - The development proposed is A Continuing Care Community (Use class C2) comprising up to 164 units of Extra Care and Close Care accommodation with graduated care provided in the form of lodges and apartments; a 75 bed nursing home and Dementia unit; an amenities building providing supporting care facilities, treatment/therapy rooms, fitness pool, restaurant, small shop and site management facilities, with open space, communal gardens, nature trails, landscaping, car parking and supporting infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for a Continuing Care Community (Use class C2) comprising up to 164 units of Extra Care and Close Care accommodation with graduated care provided in the form of lodges and apartments; a 75 bed nursing home and Dementia unit; an amenities building providing supporting care facilities, treatment/therapy rooms, fitness pool, restaurant, small shop and site management facilities, with open space, communal gardens, nature trails, landscaping, car parking and supporting infrastructure at Land off Ellesmere Rd, Shrewsbury, SY4 3AA in accordance with the terms of the application, Ref 21/05743/OUT, dated 7 December 2021, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. Interested parties have referred to the appeal site falling within the Green Belt. This is not the case.
3. I am aware that the examination of the emerging Shropshire Local Plan (e SLP) is taking place and that the allocation of the site is being pursued, together with consideration of the extent of need for older persons housing. The weight which I attach to this is addressed below. However, the soundness of the policies of the emerging plan is a matter for the examining Inspectors. My attention has been drawn by the appellant to a letter (ID19), dated 15 February 2023, from the examining Inspectors to the Council. This is of direct relevance to the appeal and was not available when the Inquiry was sitting.

The Council has raised no objection to it being provided to me. It references older persons specialist housing amongst other matters, setting out that there is a higher-than-average need for such accommodation within Shropshire and requesting that the Council give further consideration to making provision for this sector of the community.

4. Nonetheless the plan making process has yet to reach formal main modifications. Consequently, there is no certainty how the emerging plan will address this issue. Therefore, I must determine the appeal on the basis of the evidence before me relating to this particular planning application and the current planning policy context. To be clear, given the early stage of the Examination of the e SLP, this means that I have not taken into account the potential impact of the proposed Shrewsbury North Relief Road, nor the proposed housing allocation SHR173 to the west of Ellesmere Road.
5. I have also been referred to the Shrewsbury Big Town Plan which I note has no statutory status.

Procedural Matters

6. The application was submitted in outline, with approval sought for access. Details of layout, landscaping, appearance, and scale are all reserved matters to be determined later.
7. The Council now accepts that all primary residents of the housing would have care needs, and therefore the residential element would fall within Class C2 of the Use Classes Order 1987.
8. The description of the proposed development has been amended during the determination of the appeal. The number of units has been reduced from up to 182 units, to up to 164 units. This reflects amendments which have been made to a live application on the site which has yet to be determined by the Council (22/03369/OUT). The appellant wished to proceed with the appeal on the basis of the revised scheme and the Council has accepted this.
9. At my behest, a joint letter, from both the appellant and the Council, was sent to all those who had previously commented on the appeal proposal explaining the changes to the number of units, and the reduction in building heights in two locations on the height parameter plan.
10. I agree with the Council and appellant that no third-party interests are adversely affected by any of these changes. This is because the plans for the reduced scheme have been subject to public consultation as part of the current live application, and I have had sight of these representations. Consequently, taking into account the Wednesbury principles, no one would be prejudiced by my determination of the scheme on this basis.
11. Consequently, the plans for which approval are sought are site location plan RL001 rev H, and the land use and building height parameters plans PP01 rev F, and PP02 rev I. I have treated all other plans submitted with the application as being illustrative.
12. A draft Unilateral Undertaking was provided to the Council on 10 January 2023. This included the sum of £1.3 million pounds to be provided as a contribution for affordable housing. Following this, the Council confirmed that its planning witness considered with the addition of the affordable housing contribution, the

material considerations associated with the proposed development indicated that the appeal should be allowed (PID.2).

13. Following the close of the Inquiry a certified copy of the completed unilateral undertaking under s106 of the Town and Country Planning Act 1990 was submitted. This document includes planning obligations relating to eligibility to live in the specialist older person's housing; controls over the operators of the Extra Care, Close Care and nursing home element of the development; the delivery of all supporting infrastructure on site; an off-site affordable housing contribution; biodiversity enhancement, including the provision of an orchard; improvements to public transport infrastructure; highway improvements; travel plans, monitoring, and including the provision and operation of electric minibuses; sustainable urban drainage; and the Council's administrative costs in processing the unilateral undertaking. I consider this below.
14. I am aware of local residents' disappointment that the Council did not actively pursue its original reasons for refusal. Nonetheless, all those who wished to speak were provided with the opportunity to be involved in the Inquiry. Moreover, notwithstanding the Council's position, it falls to me to determine the appeal.

Background and Main Issues

15. The access from Ellesmere Road has already been built as part of the existing development associated with the vineyard and it is considered to meet the appropriate technical standards. The detailed internal road layout and access is a matter to be determined at the reserved matters stage.
16. Concerns relating to highway matters underpinned two of the Council's reasons for refusal, including the impact of any additional traffic on the highway network and the accessibility of the site. Following the receipt of further technical information, the Highway Authority accepted, with the imposition of appropriate conditions and planning obligations, that these should fall away. Nonetheless, highway matters remain of concern to interested parties.
17. From what I have read, heard, and seen; I consider the main remaining issues to be:
 - whether the appeal site represents an appropriate location for a continuing care community, with reference to the Council's adopted development strategy.
 - the effect of the proposed development on the appearance of the immediate and wider area.
 - the extent of the benefits of the proposed development.
 - whether any development plan conflict and harm arising is outweighed by other material considerations.

Reasons

Appropriateness of location

18. The development strategy set by Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (CS) is to direct development to Shrewsbury. Policy CS2 of the CS provides a framework to

deliver this development. Policy S16.1 of the Shropshire Council Site Allocations and Management of Development Plan, adopted 2015, (SAMDev) has refined this to include a defined settlement development boundary for Shrewsbury.

19. The appeal site sits on the western side of Ellesmere Road which forms part of the settlement boundary for Shrewsbury as defined by Policy S16.1 of (SAMDev). Therefore, for the purposes of the development plan, it is in open countryside. In addition, as a site close to the edge of Shrewsbury, it is not within an area defined as a Community Hub or Cluster as set out in Policy CS4 of the CS.
20. The proposed development of a continuing care community including supporting facilities does not fall within any categories of development which are deemed to be appropriate within the open countryside as defined by Policy CS5 of the CS. Moreover, as the proposed open market continuing care community is not an exception site for affordable housing, it does not meet the tests set out in policy MD7a of the SAMDev.

Conclusion

21. Consequently, I conclude that the appeal proposal is contrary to the locational policies CS1, CS2, CS4 and CS5 of the CS, and S16.1 and MD7a of the SAMDev. As such, this would result in harm to the development strategy of the adopted plan which is to concentrate the majority of development within the settlement boundary of Shrewsbury.

Appearance of the immediate and wider area

22. The appeal site lies within the open countryside, defined as Estate Farmlands within the Shropshire County Council Landscape Typology.
23. The landscape does not benefit from any specific statutory designation relating to its landscape quality or visual amenity. It is considered to be of medium sensitivity to housing according to the Shropshire Landscape and Visual Sensitivity Assessment Study, Gillespies 2018.
24. I have been referred to the classification of the land as part of a category 1 site within the Shrewsbury Landscape Character Survey produced by the CPRE. However, this study does not have any statutory status, and does not, in contrast to the Landscape and Visual Appraisal provided by the appellant and considered to be appropriate by the Council's professional landscape consultant, accord with the most up to date Guidelines for Landscape and Visual Assessment (LVA). Moreover, it relies on survey work over 20 years old. Consequently, I have given it no weight in my determination of this appeal.
25. Similarly, reference has been made to the site forming part of a Green Wedge in the Big Town Plan. Whilst I am aware the Big Town Plan has informed the production of the e SLP, it has no statutory status.
26. The application is in outline only, with all matters reserved other than access. Consequently, the detail of the design of the scheme is not before me. However, a land use parameter plan (PP01 rev F) which identifies a broad location for the elements of the proposed scheme, together with a plan setting out the parameters for the maximum height of the buildings, in terms of the number of storeys, have been provided, (PP02 rev I) together with other

- illustrative documentation including a landscaping plan. During the Inquiry, the maximum height of the buildings was confirmed in metres. These maximum heights are agreed to be consistent with the accompanying illustrative material which informed the LVA and the wider application.
27. The appellant and Council agreed a Landscape Statement of Common Ground which identified that the issue of landscape and visual effects narrowed down to the impact of the appeal proposal on users of Ashfield Recreation ground during the winter months and private views from homes in Ashfield Road.
28. The recent existing development has involved significant earth works. As a result of the new access road and grassed area, together with the Winery, glamping units, and vineyard straddling the southern slopes, the appeal site has a more managed character than the traditional farming landscape to the north of Hencote Lane. In addition, I am aware that there is an extant, unimplemented planning permission 19/05538/FUL for an additional 20 glamping units which would sit on the brow of the small hillock visible from Ellesmere Road and the Ashfield Recreation Ground. Nonetheless, there remains a clear dichotomy between the suburban developments to the east of Ellesmere Road, and the open countryside north of the wooded riverbeds to the west, including the appeal site.
29. I have visited the publicly accessible wider area more than once, both as a pedestrian and driver. The appeal site, which rises up from the wooded riverbed below provides an attractive vista and transition from the outskirts of Shrewsbury to the rural landscape beyond. However, it is clear to me that the views into the site are, as agreed by the Council and appellant's landscape experts, limited by the topography of the wider area and therefore make a localised contribution. In addition, the wider landscape is characterised by a mix of wooded areas, and open grassland, shrubland, large mature trees and hedgerow which partially screen and filter the views into the site.
30. I am aware that in the past the public were able to access the site, enjoying views over Shrewsbury and, when the weather obliged, tobogganing in the snow. In addition, residents of Ashfield Road whose homes back onto the recreation ground no doubt can enjoy attractive views across the site as part of the wider landscape, as can residents of the properties to the north of the recently constructed Winney Hill View and nearby properties, including the White House. However, as the appeal site is private land, and there are no public rights of way within it, I must restrict myself to consideration of public views. As such I have discounted any views to the south from Hencote Lane to the west of the telecommunications mast. In my judgment, the most significant publicly accessible views are those from the pavement along Ellesmere Road immediately opposite the site, although the view reveals itself when approaching from Hubert Way; the footpath from Ashfields Road; and Ashfields recreation ground; together with those achieved from the public footpath along Hencote Lane.
31. I am aware of concerns that have been raised by local residents about the hedging, along the south of Hencote Lane, which has been allowed to grow quite high and the fencing which has been erected. The Council's enforcement team has investigated this and considers the matter closed. I¹ have no reason to suggest otherwise.

¹ ID7

32. The overarching design of the proposed continuing care development is split into four separate identities. Winney Hollow would be the easternmost area of the development and would be closest to Ellesmere Road. It would include a four-storey nursing home (maximum height of 14.5 m), closest to Ellesmere Road as well as some close care units ranging in height from one, to two and a half storeys high (maximum of 11.4 m). However, these heights are expressed as maxima and are to be controlled, as will the detailed elements of the design by a further reserved matters application.
33. These buildings are proposed to be located where they could take advantage of the changes in the topography so as not to appear domineering. Nonetheless, even after 15 years after which time much of the landscaping will have matured, the appellant's LVA does concede that in the winter, when the buildings would be more visible, there would be a moderate adverse effect (Table 7.1 U.1) on users of the Ashfields recreation ground, who would look directly over Ellesmere Road into the site.
34. Similarly, in winter, when the screening effect of the existing and proposed landscaping and trees would be less effective, those walking or driving along Ellesmere Road, and those approaching from Yellowheart Lane, would be affected by the scale and extent of the unavoidable urbanisation as a result of the new development. These views would be transitory, and the impact most acute in the winter months, but nonetheless the proposal would negatively alter the visual experience of those travelling through the immediate area.
35. I have concluded there would clearly be a change in the character of the area, given the built development, along the public footpath, close to the northern boundary where it corresponds with Hencote Lane. However, combined with the significant changes in levels, views into the site would not be significantly affected, as they would be filtered and screened by the proposed additional landscaping, including the orchard at the easternmost end of the site, together with the existing trees and hedgerows and fencing. Consequently, even in the winter months, the visual impact of the development would not have a substantive impact on those walking the route who, in any case, would not have direct views over the site as the footpath PROW (0443/95/2), runs broadly parallel to the site, other than where it diverts to the north past the mobile phone mast.
36. My site visits took place in winter when the existing trees and planting are at their barest. Even so, the screening effect of the existing trees, hedgerows and rough shrubland gave me comfort that the proposed development could be, for the most part, successfully assimilated into the wider landscape and whilst there would clearly be a change to both the character and appearance of the appeal site, this could be mostly restricted in its impact other than when viewed from Ashfields Recreation Ground and specific lengths of Ellesmere Road.
37. However, this would require a careful and considered design, the details of which would need to be approved at reserved matters stage. This would include consideration of both existing, and planned site levels together with ensuring that the height of the buildings is controlled. The landscaping plan would need to be sensitive to the wider and immediate landscape character and native flora. Large, mature specimen trees, appropriate planting, the provision of an orchard characteristic of the local landscape, together with the provision of an

attenuation pond and land devoted to achieving biodiversity net gain would all need to be integrated to produce a development which would, for the most part, as set out in the appellant's LVA, result in negligible impacts.

Conclusion

38. The proposed development, the details of which are to be decided as part of any forthcoming reserved matters application, would not have an adverse impact on the appearance of the wider landscape, nevertheless, it would have a localised visual impact. Over the long term, when viewed from the Ashfields Recreation Ground, even in the best scenario, this would result in a moderate adverse impact in the winter months.
39. This residual visual adverse impact would result in limited harm given its very local impact, and that it would be most evident in the winter months when the landscaping would be less dense. However, I consider it would nonetheless be contrary to Policies CS6 and CS17 of the CS, and MD2 of the SAMDev which cumulatively require developments amongst other things to protect and enhance the local character of an area.

Extent of the benefits of the proposed development

Housing Need for Older People

40. Of the policies to which I have been referred, I consider Policies CS6, CS11, of the CS, and Policy MD3 of the SAMDev to be relevant to the provision of older persons housing. They set out that older persons' housing is to be delivered as part of general market housing development, or as windfall housing within the settlement boundaries. I am aware that some new specialist housing has come forward in Shropshire as illustrated in Table 7.1 of Mr Corden's Proof of Evidence.
41. Prior to the Inquiry, both parties provided me with a signed Further Statement of Common Ground. Paragraph 8 stated that both agreed that there was a need for older persons housing both within the plan period, and beyond. This is a truism. The question is whether older people in Shropshire have a choice of appropriate housing to meet their needs now, and whether it is appropriate to treat older people's housing tenure as an undifferentiated requirement.
42. Nationally, the NPPG states that there is a critical need to provide older persons housing and to offer a better choice of accommodation to meet their needs². Shropshire already has a higher than national level of over 75s³. This demographic is forecast to increase by 90% by 2038.
43. The proposed continuing care community already has a preferred operator in Lifecare Residences, and if allowed, it could be open by 2026. By this time, the Council suggest it will be reasonable to assume some need for sheltered/retired housing and for further bedspaces. The appellants consider the need for extra care housing and bedspaces to be more immediate suggesting a requirement for 1,059 extra care units, and 750 ensuite bed spaces now.

Housing with care

²CD 2.2.

³ CD1.6

44. The Council predominantly relies on the use of prevalence rates based on the over 75s to determine the need for specialised older persons housing⁴ (SHMA). However, I consider that this approach is fundamentally flawed⁵. It presupposes, at a fixed point in time, that the level of older persons housing and nursing care provision was appropriate to provide the optimum choice of tenure, care, and housing needs for Shropshire's elderly population.
45. There is no qualitative assessment of the existing accommodation for the elderly, and the extent to which the choice and availability of housing products, including the ability to own the leasehold of a property influences older people's decisions to move into more appropriate housing to enable them to lead as independent lives as possible.
46. I am aware of the Housing Needs Survey for Shropshire which has recently taken place and that its preliminary conclusions accord with the Council's prevalence rates. However, I am not convinced that the response to the questions relating to future preferences for care should be relied upon. This is because those questioned were over 55 rather than the over 75s, the age the prevalence rate calculation is predicated upon. It can be reasonably assumed that someone who is over 55 may have a very different understanding of their housing and care needs than a person some 20 years older⁶.
47. Consequently, I prefer the appellant's methodology based on Housing in Later Life⁷. This takes into account the tenure of housing. This figure, which I accept is not totally transparent, suggests a figure of 30 units of extra care market housing per 1000 of population aged over 75, or 3%. This contrasts starkly with the existing provision in Shropshire of 3.1 units per 1000⁸ in an area which has higher than average levels of home ownership. There is no exact science for determining the level of need for older person's housing or care needs, as it is dependent on a number of variables which relate to the individual circumstances of that person, including the wider environment, building stock, and social network in which they live. However, I am confident even in a rural county such as Shropshire, notwithstanding the Council's worthy objective of helping to keep the elderly in their own homes and communities, that were the need for extra care older person's housing not to be at the quantum put forward by the appellant, it is substantially above that suggested by the Council.
48. There is a pressing need now in Shropshire, which will only become more acute in the future, for new older person's housing with care, with only 405 units of extra care housing⁹ currently provided (CDU.2) and of that, only 120 units are for owner occupiers. Moreover, no compelling evidence has been put forward that this level of immediate need can be satisfied elsewhere.

⁴ CD1.6

⁵ APP/Q3115/W/20/3265861

⁶ Daniel Corden PoE para 9.23.

⁷ CD3.3

⁸ Table 20 U2

⁹ Ibid.

Residential care

49. In Shropshire, as is the case nationally, many of those living in care homes do not enjoy private ensuite accommodation. This is because the beds are in converted older properties or were built when it was considered appropriate for care home residents to share bathrooms. I am aware that the 2002 minimum standards for care homes have since been rescinded, nonetheless, the principle of providing high quality accommodation for the elderly still holds good. The appellant's need figure for residential care home beds, derived by the Laing Buisson methodology, is lower at 2,578 beds than that of the Council at 3,000 as of 2020¹⁰. However, the appellant's approach to discount beds from the supply which do not provide private washing facilities, with benefits both for disease control and residents' dignity, results in a greater emphasis on providing more capacity now, with a requirement of 750 bedspaces.
50. I accept that the Care Quality Commission inspects care homes to ensure that they meet required standards which do not include access to private washing facilities. However, this does not alter the fact that 28% of those in residential or nursing homes in Shropshire do not have access to a private toilet and wash hand basin¹¹.
51. I fully accept the need for a choice in accommodation, including its cost, and that there may be potential residents who are happy to share a bathroom. Nonetheless, it is reasonable to assume that there is a need to provide a choice of residential care accommodation built to modern care standards for those considering going into a home. The Council have already accepted in the Statement of Common Ground for the Need for Specialist Housing for Older People, that at 2025 there will be a further need for more residential care beds. Consequently, I conclude, even if a conservative approach was taken which did not discount all non ensuite bedspaces from the supply, this would still result in a more pressing need to provide modern beds than that evidenced by the Council.

Conclusion

52. I have been referred to the Council's housing strategy for the elderly¹². However, I do not see any conflict between its approach, which appears to be to help facilitate the elderly staying in their homes, as long as possible, through a wide range of tools, including the use of technology such as innovative virtual wards, and the continuing care community model promoted by this scheme. Rather, I consider them to be complementary.
53. Continuing care communities, such as that proposed at Hencote, are specialised and are relatively new to the UK, providing a range of accommodation on site and care responsive to residents' needs. The concept is dependent on all three levels of care being available at the same physical location. There is no similar proposal or development in Shropshire, and it should complement the existing and developing choice in older persons housing.
54. For the purposes of this Inquiry, there is no advantage in my determining the exact extent of need for extra care housing and residential care bed spaces.

¹⁰ Proof of Evidence Nigel Newton Taylor para 5.8

¹¹ Ibid paragraph 4.15.

¹² CD.1.12

However, it is clear to me from what I have read and heard that the current unmet need for both private extra care housing and residential care (nursing home including specialist dementia care) is significant and greater than that portrayed by the Council. In the future this need is likely to become even more acute given Shropshire's aging population. Moreover, the specific model of continuing care will add to the choice available to older persons when considering their future housing needs.

55. Consequently, I conclude that the proposed development once built, will make a contribution to providing choice of high-quality accommodation, and meeting the housing needs of the significant population of older persons in Shropshire. In the light of the specific evidence put before the Inquiry, at the current time the Council's approach of relying on its Adult Care Strategy and the policies of the development plan does not appear to be contributing effectively to meeting all the housing needs of older people in Shropshire. As such, this continuing care community, which could be developed within two years as there is a named operator linked to the site, would result in a significant benefit by providing new close care and extra care housing within an innovative model for those who wish to purchase their accommodation. Similarly, the provision of a modern 75 bed nursing home and dementia unit will help meet the housing and care needs of older persons and would be a significant benefit of the scheme. Cumulatively, these contributions of specialist older persons housing are a matter of substantial weight.

Release of housing stock

56. The majority of those moving to the continuing care community are likely to release general housing stock back onto the market. This could provide the opportunity for other, potentially younger, families to purchase around 200 homes. I consider this to be a significant benefit of the proposal.

Highway improvements

57. I have found that the highway improvements to be delivered through the S106 obligation meet the tests set out in paragraph 56 of the Framework. Nonetheless, the following would also provide a wider public benefit: the reduction in the speed limit within the vicinity of the access to the site, the improvement of the bus shelters advisory cycle lanes on Ellesmere Road as well as a contribution to the improvement of the footpath known colloquially as Yellowheart Lane (PROW0443/3/1), together with the provision of a dropped curb crossing, and pavement via a S278 arrangement. Collectively, I consider these to be a moderate benefit of the proposal which should be given moderate weight.

Biodiversity

58. The proposed orchard, together with a wider biodiversity enhancement plan will be implemented to provide and maintain a 13% net gain in biodiversity over the lifetime of the development. This is to be controlled through the unilateral undertaking. I consider that this benefit should be accorded moderate weight and is consistent with paragraph 179b of the Framework.

Economic benefits

59. The proposed development is likely to deliver 155 FTE operational jobs, and £75 million of inward investment to the area. In addition, there will be the

short-term economic benefits associated with the construction of the development of 460 jobs over a two-year period and £65 million of spend. Given the quantum of immediate need for older persons housing which cannot be provided for elsewhere, and therefore, would not transpire, I accord this economic benefit significant weight.

Health benefits

60. No compelling evidence has been put to me to counter the claims referred to by the appellant of substantive mental and physical health benefits to those living in such communities, as well as potential savings and operational advantages to the National Health Service, of around £1000 per annum per resident¹³.
61. Wider benefits include the alleviation of pressure on hospital beds through otherwise well patients being able to return to their home and thereby freeing up beds for those who have an urgent, or elective, medical need. Whilst the impact from this particular proposal may not be numerically significant at a particular point in time, the immediate benefit for an individual requiring a hospital bed is significant. Consequently, I accord the associated health benefits both to the residents of the continuing care community and those accessing the NHS significant weight.

Whether any development plan conflict and harm arising is outweighed by other material considerations

62. On the basis of the conflict with the policies outlined above, I conclude that the proposed development would conflict with the development plan as a whole.
63. Planning law is clear, in line with S38 (6) of the Planning and Compulsory Purchase Act, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
64. However, in this case, I have found substantial benefits resulting from the proposed development. These principally relate to the provision of 164 units of specialist older persons' accommodation in addition to a 75-bed nursing home and dementia unit, which could be provided by early 2026. I give this positive benefit which would contribute towards meeting a pressing need for older persons housing substantial weight.
65. Similarly, the freeing up of around 200 homes within the housing stock is a significant benefit to which I accrue significant weight.
66. It was agreed at the Inquiry that the continuing care community is likely to have a positive impact on the resources of the NHS and the health and wellbeing of those living at the development. I consider that this benefit should be given significant weight, as should the wider positive impacts on the health service. I have also concluded that significant weight should be given to the economic benefits of the proposed development.
67. I have determined that moderate weight should be given to the improvements to the public transport infrastructure and local highway improvements as well as the increase in biodiversity net gain, including the provision of an orchard in perpetuity.

¹³ Para 7.7 U2

68. In sum, the benefits of the scheme are substantial and compelling in the planning balance. Consequently, having taken all of the above into account, in the particular circumstances of this case, these benefits would outweigh the harm that I have identified and the conflict with the development plan. In such circumstances, material considerations indicate that planning permission should be granted otherwise than in accordance with the development plan.

Other Matters

69. I am aware of the significant public interest in the proposed development including representations made by local Councillors, the Town Council, representatives of the Shrewsbury Civic Society, the local Friends of the Earth and the Shropshire CPRE.
70. The use of the site has intensified on an incremental basis. However, my understanding is that all the existing developments on the site have planning permission. Therefore, whilst I appreciate that these changes may have been unwelcome to some, they present the planning context in which I must make my decision.
71. I have been referred to concerns raised by local residents relating to the impact of the proposed development on the ecology of the appeal site and that of the wider immediate area, including the Old River Bed Shrewsbury Local Wildlife Site and the Old River Bed SSSI which lies on the other side of Ellesmere Road. However, there is no technical evidence before me to suggest, subject to appropriate conditions including a construction environmental management plan condition, together with the planning obligation relating to the implementation of a plan to achieve biodiversity net gain, that the appeal proposal would result in harm to matters of ecological importance. Similarly, the protection of trees can be achieved by the imposition of relevant conditions. In addition, the land lost from viticulture will be replaced with land at the western end of the vineyard.
72. I have carefully considered the potential impact of the proposed development on those living nearby, including from light and noise pollution, as well as from the impact of the buildings themselves, and concluded, due to the changes in levels and distance, together with controls which can be imposed as part of any reserved matters applications, that a satisfactory development could be achieved which would not result in substantive harm. Any construction works will result in unavoidable temporary disruption to those living nearby. However, the detailed provisions within the Construction Management Plan should reduce this.
73. Other concerns have been raised about potential damage to homes from building works. However, the technical consideration of how the development is to be constructed and any potential impacts from the construction process is not a planning matter, nor is any potential loss in property values.
74. No technical objections have been raised in relation to drainage, flood risk, and water run-off, subject to the provision of a sustainable urban drainage system for the site, although I am aware of local concerns. Moreover, there is no evidence to suggest that there is not sufficient capacity to deal with the sewage associated with the site.

75. The proposed development would result in the loss of the existing glamping units and the further potential 20 units which have the benefit of planning permission. Given that the extant planning permission has not been implemented this would not result in any harm to the local leisure economy. However, the removal of the existing glamping units will have an unavoidable, albeit very limited impact.
76. Local residents have expressed concerns relating to highway safety and the impact of the proposed development on the highway network and have expressed cynicism as to whether the proposed highway improvements, such as the advisory cycleway and dropped kerb to provide a pedestrian crossing will be safe or utilised. However, the Highway Authority is content, subject to the proposed conditions, planning obligation and S278 improvements, that the scheme, which is not dependent on the construction of the North West Relief Road, poses no threat to highway safety and the wider highway network from congestion. There is nothing before me to lead me to disagree with the Highway Authority's position.
77. As set out above, the appeal site is private land with no rights of access within it. Consequently, the proposed development will not result in the loss of any publicly accessible recreational space.
78. I am aware that the continuing care community may be targeted at a relatively affluent customer base, including those from outside of Shropshire. However, there is no reason why older persons within Shropshire, or indeed beyond, should be afforded less choice in the housing market than younger people who are able to choose, subject to their financial position, between a range of housing costs. Moreover, whilst the development is intended to be relatively self-sufficient, residents will be able to mix with the wider community given the minibuses which are to be provided and the nearby public transport.
79. Other concerns have been raised that there is not the health infrastructure available to support those living on the site, including health care. However, the concentration of elderly people with care needs in a geographical area would reduce the distance for any health professional to travel including GPs, and facilitate an efficient use of health resources, and, as set out below, is likely to result in financial savings to the NHS.
80. I note that questions have been raised as to the appropriateness of the site for elderly persons with care needs given the difference in levels on the site. However, the documentation accompanying the appeal illustrates how this could be addressed, such as through accessing buildings at different levels. Moreover, I have been referred to existing similar communities in the Malvern Hills and the Cotswolds, which I understand operate successfully on land as steep, or even steeper than the appeal site.
81. Detailed design considerations, including internal access arrangements can be controlled through the subsequent reserved matters applications. This will enable the protection of the significance of the non-designated heritage assets at Crosshills, and Hencote Farm.

Planning Obligation

82. A signed unilateral undertaking has been provided by the appellants and relevant title holders to the land.

83. The planning obligation includes contributions to increase the uptake of alternatives to the car. These can be split into off-site improvements such as £10,000 to provide and improve bus shelters on Ellesmere Road; £10,000 to provide advisory cycle lanes between the site and an existing pedestrian/cycle route along Hubert Way to the south, and into Shrewsbury Town Centre; £20,000 to improve the footpath running from the top of Onslow Drive and Ellesmere Road, known informally as Yellowheart Lane (PROW0443/3/1); and a £20,000 contribution to monitor the Travel Plan over ten years for those living and working at the continuing care community. Two electric minibuses of an appropriate size are to be operated throughout the lifetime of the development.
84. Traffic safety is to be improved by a £10,000 contribution towards a Traffic Regulation Order to reduce the speed limit within the vicinity of the site access to ensure that safe access and egress to the site can be achieved. These obligations are necessary to ensure that the development is acceptable and accords with Policy MD8 of the SAMdev in relation to infrastructure and appropriate capacity.
85. A biodiversity enhancement plan would, when implemented, result, together with the planting and maintenance of an orchard to the north of the site in a 13% net gain in biodiversity. This will protect and enhance the biodiversity of the scheme consistent with Policies CS6 and CS17 of the CS, and Policy MD12 of the SAMdev.
86. Other controls over the older persons accommodation, including the provision of care and eligibility of residents, as well as the provision and maintenance of all supporting ancillary facilities are included in the obligation. This is to ensure that the development is operated in an appropriate manner and occupied by those who have specialist housing and care needs.
87. I have been provided with a compliance statement setting out how the elements of the planning obligation meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended and paragraph 57 of the Framework. I am content, on the basis of the information provided to me, that all the contributions described above meet the test of necessity; are directly related to the development and are fairly and reasonably related in scale and kind.
88. During the Inquiry, it was considered appropriate to include the provision, and management of a sustainable urban drainage system within the planning obligation. This is also necessary for the lifetime of the development and meets the relevant tests.
89. The unilateral undertaking includes a contribution of £1.3 million, index linked, to spend on off-site affordable housing in the Shrewsbury Place Plan Area. If this were not to be spent within the first five years, it could then be used throughout the whole of Shropshire. I note that both the Council and the appellant consider that this sum of money would meet the legal tests and I have been referred to CS11 of the CS, which requires housing to provide affordable housing, as well as a reference to the lack of affordable housing in the relevant officer's report relating to this application. Nonetheless, it is clear the lack of affordable housing was not considered to be a reason to withhold planning permission even when the proposed development was considered to fall within Class C3 of the Use Classes Order. If it had been, logically, it would have formed a reason for refusal.

90. Prior to the Inquiry the Council conceded that the housing within the continuing care community fell with Class C2 of the Use Classes Order. It is clear from the original Statement of Common Ground that the Council did not consider that there was a policy basis to require an affordable housing contribution¹⁴. I have carefully considered the correspondence that I have received on this from both parties, including consideration of the shortage of affordable housing for carers, set out in Ms Tyler's evidence. The financial contribution will go to a general affordable housing pot. Therefore, there is nothing to suggest that care workers would directly benefit from this. Consequently, I conclude that the affordable housing contribution, whilst no doubt welcome to the Council and providing a wider community benefit does not meet the legal tests. Therefore, I have not taken it into account as part of the planning obligation in reaching my decision.

Conditions

91. A list of planning conditions was discussed at the Inquiry. Following the end of the Inquiry a revised list of agreed conditions, including pre-commencement conditions was provided by the parties. However, in the interests of clarity and conciseness I have made minor changes to the conditions and where appropriate deleted superfluous conditions given the unilateral undertaking referred to above.
92. Conditions 1-3 set out the standard time limitations for an outline planning permission. Conditions 4 -7 and 19 clarify the relevant plans for the outline permission and the general development principles which are to be followed including the maximum number of units to be provided and the control of the ground levels at which the buildings will be constructed. These are required to ensure a visually acceptable development. Condition 8 is required to avoid any potential for contamination from the development. Condition 9 is required both to manage the construction phase of the development, including environmental protections, but also to protect the amenity of local residents.
93. Conditions 10-14 and 18 provide further protection for matters of ecological importance including trees. Condition 15 relates to the control of surface water and foul drainage for the site. Condition 16 reflects the need for archaeological assessment of the site.
94. Given the importance of the landscaping of the site condition 17 requires a landscaping plan as one of the first reserved matters applications. Condition 20 requires a phasing condition to ensure the infrastructure is delivered at the appropriate time. Conditions 21-23 require appropriate highway related matters, including the provision of a parking plan are provided. Lastly, condition 24 is required to ensure that all the residential accommodation is wheelchair accessible to provide for the mobility needs of the residents.
95. I have removed a condition relating to electric charging points as this is not necessary as it duplicates building control regulations. I understand that the Council wished to control the location of the electric charging points and to ensure that the minibuses were able to be fully operational and charged. However, I am confident that the location of any charging points would be controlled by condition no 22 which relates to a reserved matters application for details of the level and location of parking spaces.

¹⁴ Paragraph 5 Statement of Common Ground 22.12.22

Conclusion

96. For the reasons given above I conclude the appeal should be allowed.

Louise Nurser

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Paul Tucker, King's Counsel.

Ms Stephanie Hall Counsel

Instructed by Ms Lizzie Marjoram of LLB Bird Wilford & Sale.

They called:

Mr James Rand MSc, MCIHT Paul Basham Associates.

Mr Tom Wigglesworth BSc (Hons), Director EDP.
MSc, MCIEEM

Ms Ruth Bishop BSc (Hons), MA, CMLI Associate Director, Savills.

Mr Nigel Newton Taylor BSc (Hons), Director, Healthcare Property Consultants
MRICS Ltd.

Mr James Donagh BA (Hons), MCD Director Barton Willmore.
MIED

Mr Richard Shaw BA (Hons), Senior Associate Director, Savills.
Dip Urb Des, MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Mr Hugh Richards of Counsel.

Instructed by Head of Legal Services, Shropshire County Council.

He called:

Mr Daniel Corden BSc (Hons), MSc, Principal Planning Policy Officer, Shropshire
MPlan, MRTPI County Council.

Mr Kelvin Hall BSc (Hons), PGDip, Principal Planning Development Control
MRTPI Officer, Shropshire County Council.

Ms Laura Tyler BA (Hons) Assistant Director of Joint Commissioning
Shropshire Council and Shropshire, Telford
and Wrekin Integrated Care Systems.

INTERESTED PARTIES:

Mr Benedict Jephcott

Local resident.

Mr Michael Dinneen, FinstAM (AdvDip)
MinstLM

Chair, Shrewsbury Civic Society.

Mr Michael Davies

Local resident.

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 Statement of Common Ground on C2 Need.
- ID2 Opening submissions of the Appellant.
- ID3 Opening submissions of the Council.
- ID4 Proposed Site Visit Itinerary.
- ID5 Written statement of Mr Benedict Jephcott.
- ID6 Revised planning conditions 25 1 23.
- ID7 Letter dated 21 December 2022 from Shropshire Council re closure of enquiry re fence and hedging.
- ID8 Historic map with PRow overlay.
- ID9 Written statement of Mr Michael Dinneen, Chair Shrewsbury Civic Society.
- ID10 Revised planning conditions 26.1.23
- ID11 Shrewsbury Big Town Plan 2018.
- ID12 Revised unilateral undertaking 26.1.23- tracked changes and clean version for engrossment.
- ID13 Written statement of Mr Keith Davies.
- ID14 Closing submissions of Mr Hugh Richards on behalf of the Council.
- ID15 Closing submissions of Mr Paul Tucker KC and Stephanie Hall on behalf of the Appellant.
- ID16 Final draft conditions.

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- ID17 Shrewsbury Place Plan.
- ID18 S106 Unilateral Undertaking- certified copy.
- ID19 Letter dated 15 February 2023- Examination of Shropshire Local.

SCHEDULE OF CONDITIONS

1. Details of the appearance of the development, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby approved, which relates to the site edged red on drawing no. RL001 rev H (Red Line Boundary Plan), shall be carried out in accordance with the details shown on drawing nos. PP01 rev F (Land Use Parameter Plan) and PP02 rev I (Building Heights Parameter Plan).
5. No element of any building on any part of the development hereby permitted shall exceed the following as measured from adjacent ground level:

Extra Care/ Close care units

- 1 storey - 7m
- 1.5 storey - 8.4m
- 2 storey - 10m
- 2.5/3 storey - 11.4m.

Nursing Home

- 4 storeys: 14.5m

Amenities Building

- 12.65m

6. Any reserved matter applications shall be in general accordance with the principles set out in the Planning Statement (updated August 2022 Rev E), the Indicative Landscape Masterplan (page 25 of Planning Statement August 2022 Rev E), the Design and Access Statement (updated December 2022) and the Landscape Strategy (updated October 2022).
7. The number of units provided as part of the development hereby permitted shall not exceed 164 Extra Care and Close Care units and a 75 bed Nursing Home.
8. No development shall take place until a report detailing a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental

Protection Act 1990 in relation to the intended use of the land after remediation.

- A) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
 - B) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with Land contamination: risk management (Environment Agency, 2019) or any successor document and must be submitted to and approved in writing by the Local Planning Authority.
 - C) Where remediation is necessary a remediation scheme must be prepared and implemented which must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the measures have been completed a Verification Report shall be provided to and approved by the Local Planning Authority to demonstrate that the contaminated land has been made safe in relation to the intended use of the site.
9. No development shall take place, including any work of demolition, until a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
- a) Safe Access and vehicle routing
 - b) Hours of operation and deliveries, site office locations, and storage of materials details.
 - c) 24 hour emergency contact number.
 - d) Vehicle parking, turning, and loading arrangements.
 - e) Construction Traffic Management Plan.
 - f) Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway.
 - g) Waste management plan.
 - h) Measures to limit noise and vibration from construction activities.
 - i) Risk assessment of potentially damaging construction activities.
 - j) Identification of "biodiversity protection zones".
 - k) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.

- l) The location and timing of sensitive works to avoid harm to biodiversity features.
- m) The times during construction when specialist ecologists need to be present on site to oversee works.
- n) Responsible persons and lines of communication.
- o) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - i. Compliance with legal consents relating to nature conservation;
 - ii. Compliance with planning conditions relating to nature conservation;
 - iii. Installation of physical protection measures during construction;
 - iv. Implementation of sensitive working practices during construction;
 - v. Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
 - vi. Provision of training and information about the importance of 'biodiversity protection zones' to all construction personnel on site.
- p) Use of protective fences, exclusion barriers and warning signs.
- q) Measures to provide temporary localised surface water run-off management systems for construction stage activities.
- r) A soil management plan for construction stage activities.
- s) Pollution prevention measures, particularly in relation to The Old River Bed SSSI, as specified in section 5 of the Ecological Appraisal dated December 2021 reference edp7067_r002.

All construction activities shall be implemented strictly in accordance with the approved CEMP.

10.No development shall take place (including level changes) until a Habitat Management Plan (HMP) expanding upon the information provided within the Ecological Appraisal dated December 2021 reference edp7067_r002, including the Biodiversity Metric document and the proposed Landscape Strategy, detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat, to secure a habitat compensation value of no less than 2.67 Habitat Units and 0.62 Hedgerow Units, as illustrated in the Ecological Appraisal dated December 2021 reference edp7067_r002 report, has been submitted to and approved in writing by the Local Planning Authority. Within the HMP document the following information shall be provided:

- A) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);
- B) Details of species composition and abundance where planting is to occur;

- C) Proposed management prescriptions for all habitats for a period of no less than 25 years;
- D) Assurances of achievability;
- E) Timetable of delivery for all habitats; and
- F) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary. The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

11.A: No development shall take place until:

- A) protective fencing and ground protection for trees proposed for retention within the Cheshire Woodlands Tree Protection Plan and Arboricultural Method Statement CW/10609-P-TP has been installed. The fencing and ground protection shall be maintained throughout the duration of the construction of the development.
- B) a construction specification and method statement addressing hard surfacing and the routing of services near to trees has been submitted and received written approval by the local planning authority and the development shall be carried out in accordance with that scheme.
- C) a consulting arboriculturist has been appointed to undertake supervision and monitoring of the tree protection fencing and other measures on the tree protection plan at pre-commencement stage. A completion statement shall be submitted to the local planning authority which demonstrates compliance with the approved tree protection measures.

B: No trees shall be removed as part of the development other than those identified for removal within the Cheshire Woodlands Tree Protection Plan and Arboricultural Method Statement CW/10609-P-TP.

12.No development or vegetation clearance shall take place until a District Level Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority and thereafter complied with.

13.No development shall take place until a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. Such inspection is to be carried out within six weeks prior to the date of submission to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for approval by the Local Planning Authority before development commences that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

- 14.No development shall take place, or subsequent phase until an Ecological Impact Assessment shall be submitted, together with any required phase 2 surveys, the assessment to i) establish if there have been any changes in the presence and/or abundance of species or habitats on the site and ii) identify any likely new ecological impacts and mitigation requirements that arise as a result.

Where update surveys show that conditions on the site have changed (and are not addressed through the originally agreed mitigation scheme) then a revised updated and amended mitigation scheme, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (or commencement of the next phase). Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

- 15.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 any part of the development is occupied/brought into use (whichever is the sooner) and retained thereafter for the lifetime of the development.
- 16.No development shall take place until an archaeology written scheme of investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. The investigation and works shall be carried out as approved.
- 17.The first submission of reserved matters shall include a landscaping plan. The submitted plan shall include:
- A) Planting plans, creation of wildlife habitats and features and ecological enhancements (following the specification of Section 5 of Ecological Appraisal dated December 2021 reference edp7067_r002).
 - B) Written specifications for establishment of planting and habitat creation to include replacement planting of failed specimens within five years of planting;
 - C) Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
 - D) Implementation timetables. Native species used are to be of local provenance (Shropshire or surrounding counties).
 - E) Details of maintenance.
 - F) The plan shall be carried out as approved and thereafter retained and maintained in accordance with the approved plan

18. Not later than the first submission of reserved matters shall include an external lighting plan. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features taking into account the Bat Conservation Trust's Guidance Note 08/18 Bats and Artificial Lighting in the UK or any successor document. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
19. Not later than the submission of the first reserved matters for approval shall include full details of the finished levels above ordnance datum of the ground floor(s) of the proposed building(s) and a plan showing all existing and proposed ground levels. The development shall be carried out in accordance with the approved levels.
20. Not later than the submission of the first reserved matters application, a phasing plan should be submitted to and approved in writing by the Local Planning Authority. The plan shall address any phasing of the proposed development and phasing of the proposed infrastructure. It shall ensure that the vehicular access roads, footways and other infrastructure necessary to service the permitted development is provided at appropriate times throughout the development. Works shall be delivered in accordance with the approved phasing plan.
21. Not later than the submission of the first reserved matters application details of the proposed footway provision within the development and proposed improvements along Ellesmere Road, to include the delivery of a pedestrian crossing should be submitted to and approved in writing by the Local Planning Authority. The details shall be carried out as approved. The scheme shall be fully implemented in accordance with approved details prior to occupation and retained thereafter.
22. Not later than the submission of the first reserved matters application details of the proposed level of parking and allocation, should be submitted to and approved in writing by the Local Planning Authority. Any parking plan should be developed in association with a Travel Plan for the site that provides details of how sustainable travel to and from the site should be promoted for residents, staff and visitors to be site. The details / plan shall be carried out as approved. The scheme shall be fully implemented in accordance with approved details prior to occupation and retained thereafter.
23. Not later than the submission of reserved matters on layout, a scheme detailing the design and construction of all new internal roads, footways and accesses together with measures for the disposal of highway surface water shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with approved details prior to occupation and retained thereafter.
24. All dwellings at the site shall be built to the M4(3) (wheelchair user dwellings) standard within Building Regulations.

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Appeal Decision

Site visit made on 3 March 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2023

Appeal Ref: APP/L3245/W/22/3308708

5 Wood Terrace, Well Farm Junction Marton to Myddle Hill Junction with A528, Myddlewood, Myddle, Shropshire SY4 3RZ

- 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 & Mrs G & RC Price against the decision of Shropshire Council.
 - The application Ref 22/03519/FUL, dated 29 July 2022, was refused by notice dated 3 October 2022.
 - The development proposed is described as 'Retrospective change of use of holiday let to an unrestricted residential dwelling'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission (ref: 21/00598/FUL) was previously granted in April 2021 to enable the appeal building to be used as holiday let accommodation. This was subject to conditions, including to restrict its use to holiday let and limit persons to a maximum stay of 4 weeks with no return in 12 months.
3. I am informed that a member of the appellants' family inadvertently let the property out to tenants (not on the basis of a holiday let) for a full 12-month period. The appellants have further advised that the relevant tenancy period expired in early March 2023 (prior to the appeal decision being made) and that the tenancy was not being renewed. During my site visit I entered the appeal building, and it was apparent that the tenants were in the process of moving out of the property.
4. Accordingly, I am satisfied the failure of the appeal would not put any tenants' occupation of the property at risk, nor interfere with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.

Main Issues

5. The main issues are: a) whether the site is a suitable location for the proposed development having regard to local and national planning policy; b) whether the proposed development would provide suitable living conditions for future occupants; and c) whether the proposed development would result in an unacceptable loss of tourism accommodation.

Reasons

Location

6. The appeal site relates to a detached building to the rear of 5 Wood Terrace (no. 5). It is accessed via a shared drive with no. 5 and adjacent neighbouring properties. I understand that the appeal building was formerly used as ancillary accommodation to no. 5, before planning permission was granted in 2021 for it to become a holiday let.
7. The appeal site is positioned in a rural location, amongst a small cluster of dwellings, as such it is not isolated in nature. However, it remains a considerable distance from the village of Myddle along a country road, which has an absence of pavements and streetlighting with limited services and facilities nearby. It is also outside of any defined settlement boundary and therefore is considered to be in the open countryside. Given the context of the site, it is likely that any residents of the proposal would be dependent on the use of private motor vehicles for most of their daily needs.
8. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (the Core Strategy) allows for certain new development in the open countryside, where it maintains and enhances the countryside's vitality and character and improves the sustainability of rural communities. A list of suitable development types is provided by the policy. This includes new dwellings or conversions for rural affordable housing/accommodation to meet a local need (subject to further criteria), or open market residential conversions where they involve a heritage asset.
9. Additionally, Policy CS11 of the Core Strategy sets out the Council's approach to the delivery of affordable housing. This includes that relevant residential conversion schemes in the countryside (where permitted under Policy CS5), contribute to the provision of local needs affordable housing and make appropriate infrastructure contributions.
10. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan (adopted 2015) (the SAMDev) relates specifically to managing housing development in the countryside and provides further criteria to Policies CS5 and CS11. The policy establishes that new market housing will be strictly controlled in the open countryside. It does allow for suitably designed and located exception site dwellings and residential conversions, where they meet evidenced local housing needs and accord with other policy requirements.
11. The appellants suggest that, if sold, the proposed residential dwelling would be offered as an affordable unit. They have also indicated an intention to provide a legal agreement to restrict future occupancy of the property as an affordable dwellinghouse. However, from the evidence before me it is unclear as to whether the appellants are proposing that the building would be affordable housing as per the definition in the National Planning Policy Framework¹ (the Framework). Moreover, there is no appropriate mechanism before me to secure the property as affordable housing. It has also not been evidenced that there is a local housing need in the area, as per the above local policy requirements.

¹ See Annex 2: Glossary of the National Planning Policy Framework (2021)

12. The proposed development also does not satisfy any of the other exceptions outlined under Core Strategy Policy CS5 or Policy MD7a of the SAMDev. Whilst the Council may have previously found the principle of tourism accommodation to be an acceptable use of the appeal site, this does not sufficiently justify the proposed development. Notably, due to the difference in their use and the alternative policy requirements that need to be satisfied.
13. Accordingly, the proposed development does not comply with the Council's strategy for residential development in the countryside and is in conflict with Policies CS5 and CS11 of the Core Strategy and Policy MD7a of the SAMDev.
14. Likewise, due to its location, lack of nearby services/facilities, and that occupants would likely be highly dependent on the use of private motor vehicle, the proposal would also conflict with the housing strategy set out within the Framework.

Living Conditions

15. The appeal building is a single storey two-bedroom property with an overall floorspace of just under 60sqm. This falls marginally below the minimum gross internal floor area for a two-bedroom property as set out in the nationally prescribed space standards². Additionally, neither of the bedrooms meet the minimum nationally prescribed space standards to be used as double (or twin) bedrooms. Indeed, I observed on my site visit that the property, most notably the bedrooms, were rather cramped and confined spaces. The lack of space within the bedrooms would be particularly acute if being used by multiple occupants. Whilst this may be adequate for occupants that would be staying on a temporary basis (e.g. tourists), I consider the property would provide unsatisfactory living conditions for permanent residential occupants.
16. The appellants accept both bedrooms would need to be single occupancy to meet the prescribed space standards. The appellants have therefore put forward that the proposed residential dwelling would be restricted to a maximum of two occupants. It is further suggested that this could be controlled through short-term lease arrangements should the accommodation be rented out. It is unclear from the evidence before me how this would be controlled in the event that the property was to be sold. In any case, I am not persuaded that the number of occupants could be suitably controlled via a planning condition, having regard to the tests of conditions outlined at paragraph 56 of the Framework.
17. Both the existing and proposed dwelling would have separate curtilages and areas of outdoor recreation space. From my on-site observations the outdoor amenity space that would be provided to each property would be sufficient to undertake a range of activities, including sitting out, children's play, drying of washing, and storage of waste. I am therefore satisfied that the proposal would provide each dwelling with an appropriate level and type of outdoor amenity space. This is despite the proposal not necessarily meeting the minimum level of outdoor space that the Council has identified as being expected under its supplementary planning document. Nevertheless, this does not overcome my concerns over the adequacy of the internal accommodation.

² See Department for Communities and Local Government 'Technical housing standards – nationally described space standard'

18. Overall, I find that the proposed development would not provide suitable living conditions for future residential occupiers. This is due to its limited internal floorspace, in particular the cramped nature of the bedrooms, alongside the property's potential to accommodate several residents. The proposal is therefore in conflict with the Framework in respect of providing development of a high-quality design that has a high standard of amenity for existing and future users.
19. The Council has also referred to Policy MD2 of the SAMDev in its reason for refusal, which relates to sustainable design. Whilst the policy provides various design criteria that development proposals should adhere to, it does not detail the need to safeguard the living conditions of future occupiers or require the delivery of specific space standards. Accordingly, I have not found the policy to be relevant in this instance.

Loss of Tourism Accommodation

20. Policy MD11 of the SAMDev seeks to establish a positive approach to tourism, leisure, and recreational developments that balance the benefits to the economy against the need to protect the environmental qualities of the area. Amongst other matters, the policy requires proposals for the conversion of holiday lets to permanent residential use to demonstrate that their loss will not have a significant adverse effect on the visitor economy.
21. Whilst planning permission was granted for the appeal building to be used for tourism accommodation, the appellant highlights that the site has never been used in such a manner. Therefore, to my mind, the tourism use has not commenced and the appeal proposal would not result in the loss of such a use.
22. Even if the proposal was deemed to result in the loss of tourism accommodation, given its lack of use, I do not consider it would cause any significant adverse impacts to the area's visitor economy. Consequently, I do not consider the proposal to conflict with Policy MD11 of the SAMDev.

Other Matters

23. I recognise that permanent residents may also support the local economy in a similar or greater manner than tourists, however, this does not justify the proposal's conflict with the above adopted development plan policies.
24. The use of the building as a holiday let could generate more vehicle trips than its permanent occupation as a residential dwelling. However, I consider this unlikely, whilst in any case, I do not find it would warrant the appeal proposal.
25. Similarly, a lack of harm to (or objections from) neighbouring residents is not suitable justification for the proposal.

Conclusion

26. For the reasons given above, having regard to the development plan and taking account all other matters raised, the appeal is dismissed.

Lewis Condé

INSPECTOR