



Committee and date  
Southern Planning  
Committee

25<sup>th</sup> March 2025

Item

Public

## Development Management Report

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

### Summary of Application

|  |  |        |
|--|--|--------|
| <b><u>Application Number:</u></b> 25/00309/FUL   | <b><u>Parish:</u></b>                                | Ludlow |
| <b><u>Proposal:</u></b> Change of Use of a Biowaste Digester to recycle household organic waste building to a Biochar Production Facility, erection of extension and installation of associated infrastructure (sui generis) |  |        |
| <b><u>Site Address:</u></b> Biodigester Station, Coder Road, Ludlow, Shropshire, SY8 1XE   |  |        |
| <b><u>Applicant:</u></b> Shropshire Council  |  |        |
| <b><u>Case Officer:</u></b> Jacob Collett  | <b><u>email:</u></b> jacob.collett@shropshire.gov.uk |        |

**Grid Ref:** E35290:N274570



**Recommendation: - Grant Permission** subject to conditions set out in appendix 1 with delegation to officers to revise condition wording.

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 The application proposes the change of use of a Biowaste Digester to a Biochar Production Facility. This includes the erection of associated infrastructure incorporating chimneys, tipping walls and additional building space.
- 1.2 There are no proposed changes to the existing Site access.
- 1.3 The development proposed is subject to an Environmental Permit under the Environmental Permitting Regulations (2016). This is a parallel, but separate process to the planning application, focused on assessing and controlling pollution impacts of developments. The planning application principally determines the land use acceptability and assesses the development against other material planning considerations. There is some natural crossover of environmental matters in the planning process for a waste scheme, however the planning application should not focus on managing pollution impacts where they are controlled by the Environmental Permit. Thus, this report considers pollution (noise, air, water, odour) only insofar that the development would not result in unacceptable risks or harms.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The Site is located to the east of Ludlow Town Centre, within Ludlow Business Park off Codor Road. The Site is protected employment land and has an established extant use for waste processing.
- 2.2 There is an existing warehouse building on site, with most of the land being hardstanding. To the north, west and south of the Site there are adjoining business park uses and to the east a belt of trees separating it from the A49.
- 2.3 An existing public right of way (PRoW) circulates the Site to the North but does not cross into it at any point.

### **3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION**

- 3.1 In accordance with the 'Scheme of Delegation' this application, due to the applicant being Shropshire Council, is required to be determined by planning committee.

### **4.0 COMMUNITY REPRESENTATIONS**

An application notice was displayed at the Site on 31<sup>st</sup> January 2025.

#### 4.1 **Consultee Comments**

##### 4.1.1 ***Ludlow Town Council***

To Object for the following reasons relating to harmful environmental impacts specifically:

- i) The study supplied in the application used virgin feedstock, so the application does not adequately consider the environmental implications to using food garden waste derived feedstock mentioned in the application.
- ii) The studies regarding the impact to wildlife are not conclusive or adequately rigorous.
- iii) The application has not adequately considered the impact of increased traffic related to the operation of the site on Parrys Road.
- iv) The application indicates that the sulphur dioxide levels are expected to remain within permitted limits, but the concentrations mentioned could create unpleasant smells.
- v) The application has not adequately considered the site's impact of the ground water in relation to the effects / risks of contamination of the three SSSI sites locally.

##### 4.1.2 ***SC Regulatory Services***

###### **Air quality**

The proposed process will require an environmental permit under the requirements of the Environmental Permitting (England and Wales) Regulations (2016), the environmental permit will control emissions to air and require compliance with specified emission limit values (ELVs). The air quality report provided has modelled emissions based on the maximum emission levels permissible under the requirements of the environmental permit. The results indicated that impacts on pollutant concentrations were predicted to be within the environmental quality standards (EQS) at all receptor locations and hence the impact on human receptors is not considered significant.

It should be noted that the maximum permissible emission levels are unlikely to be emitted from the plant. Also, the emission limits applied in the model relate to incineration processes, however, pyrolysis plants as proposed in this application, thermally treat fuels, gasifying material and subsequently combusting the evolved gas. As pyrolysis plants do not combust the waste itself, only the gas that is emitted from the pyrolysis process, particulate matter (PM) and metal emission predictions are likely to have been overestimated.

###### **Odour**

The odour impact assessment provided in the planning statement indicates that potential for offsite odour is low. The main sources of odour would be unprocessed material storage or poor combustion, correct management of the process should minimise any potential odour emissions. Hence with correct management any odour events would be short lived and management controls should reduce the frequency to a negligible level. It should be noted that odour emissions would also be controlled by the environmental permit.

###### **Noise**

The noise report provided includes a BS4142 assessment of the predicted noise impacts from the proposed development, the assessment indicated that the rating levels would be 5dB above background during the day and 6dB above background during the night. This indicates that there is a potential for an adverse impact and the impact is likely to be above the lowest observed adverse effect level indicating that any noise impact should be mitigated and reduced to a minimum.

The report provides some context about the daytime noise levels explaining that the assessment assumes all activities are operating simultaneously (this is unlikely to happen, it also explains that the nature of the noise sources and the existing noise environment means many of the noise sources will be masked by the existing noise. The noise source that has potential to be noticeable above the existing background noise is that of the chipper. The report indicates that this noise source could be mitigated by reducing the aperture of the door to the chipping building. It is recommended that this mitigation is implemented to minimise the noise impact, further information should be provided detailing how this would be achieved. If possible, the aperture should be fixed at the lower level rather than being reliant on an operator not fully opening a roller door.

In regard to the night time noise impact no assessment of context has been provided. Although the overall noise level is low it needs to be clarified whether plant running at night is likely to produce a perceptible hum which could impact on local residents (e.g having to close windows at night). Further clarification is required to assess whether there is likely to be noise that is perceptible within nearby sensitive locations, what is the source of the noise, are there any tonal qualities to the noise which could make it clearly audible over the background noise and are there potential mitigation measures that could be applied.

Should the application be granted planning consent it is recommended that the following condition is applied:

1. Prior to the use commencing a noise management plan shall be submitted for the written approval of the Local Planning Authority (LPA). The measures identified and approved by the LPA shall be implemented and maintained at all times thereafter in accordance with the approved plan. The approved plan should include operating hours for noise generating activities

Additional Comments received 11<sup>th</sup> February.

The revised noise report has provided additional mitigation to minimise the impact of daytime noise by reducing the aperture of the access door to the chipping building and relocating the access to the rear of the building . This has reduced the noise rating level by 7dB reduces the predicted noise impact to low. Note this assumes that the hours of chipping and delivery are restricted to daytime hours only and other building openings are kept closed when the plant is operating.

The explanation of context has clarified that the night time noise levels are unlikely to be audible above the ambient noise levels within the nearby residential

properties and therefore no further mitigation is considered necessary for night time noise impacts.

Therefore with the amendments Environmental protection has no objections to the proposal

Should the application be granted planning consent it is recommended that the following condition is applied:

1. The chipping machinery shall not be operated or delivery vehicles permitted on the premises before 0800 or after 1730 on weekdays nor before 0900 or after 1330 on Saturdays and not at any time on Sundays or Bank Holidays.
2. Prior to the use commencing a noise management plan shall be submitted for the written approval of the Local Planning Authority (LPA). The measures identified and approved by the LPA shall be implemented and maintained at all times thereafter in accordance with the approved plan. The approved plan should include operating hours for noise generating activities.

#### ***Sustainable Urban Drainage Team (SUDS)***

The proposals are unlikely to significantly increase flood risk and therefore are acceptable.

4.1.3

#### ***SC Highways***

Shropshire Council as Local Highway Authority raise no objection in principle to the proposed development, on the basis that there will not be a significant change in vehicle movements and operation within the site as a result of the proposed change of use.

4.1.4

It is recommended that a planning condition is attached to any permission granted that requires a Construction Management Plan to be submitted prior to commencement.

#### ***SC Ecology***

No objection

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

4.1.5

#### ***SC Trees***

I have reviewed submitted documents and drawings and on behalf of Shropshire Council Tree team I can report that there is no objection to this application on arboriculture grounds.

4.1.6

#### ***Natural England***

No objection

## **Public Comments**

### **4.1.7 Objection – One**

Residents object in the strongest possible terms to this application. It is already admitted in the application that there will be problems and to say they will be mitigated is not satisfactory. The best mitigation is not to create this.

4.2  
4.2.1 The biodigester caused problems when it was operating. It is surely clear that this sort of facility should not be created in a built-up area so close to residential homes. There have been so many examples of similar applications being permitted and then causing problems which residents find almost impossible to counter. No justification or need to for a biochar facility in south Shropshire has been shown

### **Support – One**

We support this proposal.

4.2.2 It provides a means of increasing Shropshire's contribution to carbon reduction by capturing carbon in a product that would otherwise be released by burning or full decomposition of timber.

This product has direct monetary value, indirect value in the carbon credit market and can be used as a soil improver and mitigation for run-off pollution of local rivers. In the near future, Shropshire will have to dispose of very large amount of timber as a result of ash die-back, for instance. It provides a use for a site that has been idle for many years in a way that is consistent with the original purpose of the site, i.e. to reduce the putting of waste into the environment.

With respect to food waste, Shropshire, like all councils, will have to introduce kerbside food waste collection in 2026. This waste has to be processed and it makes sense to use a local facility already designed for this purpose rather than transporting it a long distance.

The design of the plant was enhanced during its use as a biodigester to provide 'positive pressure' systems to contain and manage odour. The wildlife impact of the site will not be changed by this proposal. The level of additional vehicle traffic was considered acceptable during biodigester use and it not large compared with other traffic on Parys Road, which is, after all, the spine road of an industrial estate.

It also provides an opportunity for Shropshire to be at the leading edge of a technology that will become increasing important and valuable over time.

## **5.0 THE MAIN ISSUES**

Principle of development  
Scale and Design  
Neighbour Amenity  
Air Quality  
Ecology  
Highways  
Trees  
Other Matters

## 6.0 OFFICER APPRAISAL

### 6.1 *Principle of Development*

6.1.1 The current use of the Site is as a 'Biowaste digester to recycle household organic waste', granted through planning application SC/ML2005/16570/SS in 2005. The operation of the Site as a Biowaste Digester ceased in 2014 and the Site has remained vacant since. However, I do not consider the use of the Site to have been abandoned, considering the relatively short period of time since operations ended and the principal structures remaining. Therefore, the sui generis waste use at the Site remains extant.

6.1.2 The proposed submission intends to change this waste use to an alternative operation. Considering the proposal, which includes new built development, the change of operation at the Site would constitute a material change of use, requiring planning permission in accordance with the Town and Country Planning Act 1990. Consequently, assessment of the principle of development is undertaken.

6.1.3 National policy supports development that contributes to “the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. [Development] should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.” (para 161, NPPF 2024).

6.1.4 Waste processing sites are part of this wider sustainability drive and can make a positive contribution to Net Zero Objectives. Specifically, Pyrolysis as a newer technology, has been evidenced to result in waste processing with reduced emissions alongside enabling carbon sequestration with Biochar. The proposal would therefore positively support this national sustainability objective.

6.1.5 Whilst the proposal meets wider sustainability aims, individual schemes still need to be adequately assessed and sited. The NPPF does not provide any specific waste planning policy to direct development but outlines it should be read in conjunction with the Governments planning policy for waste (paragraph 4).

6.1.6 The National Waste Planning Policy (2014) (NWPP) first sets out the guiding ambitions for waste development within Chapter 1. They are as follows;

- *delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (see [Appendix A](#));*
- *ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;*
- *providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling*



- waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle<sup>[footnote 1](#)</sup>;*
- helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and*
- ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste.*

6.1.7 The document then evolves to set out the considerations when determining planning applications for waste proposals. It is outlined in Chapter Five of the NWPP that:

*When determining waste planning applications, waste planning authorities should:*

- only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;*
- recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy;*
- consider the likely impact on the local environment and on amenity against the criteria set out in [Appendix B](#) and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;*
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;*
- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;*
- ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary*

In consideration of the above, Appendix B is included below. This outlines the criteria for consideration by the planning authority for waste schemes as follows:

- 6.1.8
- protection of water quality and resources and flood risk management***  
*Considerations will include the proximity of vulnerable surface and groundwater or aquifers. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The*



*suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care.*

- **land instability**

*Locations, and/or the environs of locations, that are liable to be affected by land instability, will not normally be suitable for waste management facilities.*

- **landscape and visual impacts**

*Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character; (ii) the need to protect landscapes or designated areas of national importance (National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts) (iii) localised height restrictions.*

- **nature conservation**

*Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.*

- **conserving the historic environment**

*Considerations will include the potential effects on the significance of heritage assets, whether designated or not, including any contribution made by their setting.*

- **traffic and access**

*Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports.*

- **air emissions, including dust**

*Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.*

- **odours**

*Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.*

- **vermin and birds**

*Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby. They can also provide a hazard to aircraft at locations close to aerodromes or low flying areas. As part of the aerodrome safeguarding procedure ([ODPM Circular 1/2003](#)) local planning authorities are required to consult aerodrome operators on proposed developments likely to attract birds. Consultation arrangements apply within safeguarded areas (which should be shown on the policies map in the Local Plan). The primary aim is to guard against new or increased hazards caused by development. The most important types of*

*development in this respect include facilities intended for the handling, compaction, treatment or disposal of household or commercial wastes.*

- **noise, light and vibration**

*Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered.*

- **litter**

*Litter can be a concern at some waste management facilities.*

- **potential land use conflict**

*Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility.*

The NWPP (2014) provides a suitable basis and criteria for the assessment of any waste planning proposal. However, it is reasonable to interpret that Chapter Five emphasises Local Plans as the principal policy to determine the suitability of a Site and whether the proposal is consistent with the waste strategy for the area. Consequently, an understanding of the Local Waste policy is needed.

6.1.9 Shropshire's Local Policy provides guidance on the determination of waste applications through two key documents, the Core Strategy (2011) and SAMDev (2015). The Core Strategy provides policy for the principal acceptance of waste developments, whereas SAMDev describes policy focused on the details of such schemes.

6.1.10 Policy CS19, *Waste Management Infrastructure*, of the Core Strategy outlines a support for proposals that encourage a move away from landfill in a way consistent with the waste hierarchy. The policy outlines waste sites will be designated within SAMDev, but there is also support for smaller facilities that aren't allocated. This support is provided where Sites are within accessible locations, near to urban areas and are consistent with the principle and site

6.1.11 identification criteria set out in national and regional (where applicable) policy. CS19 also outlines a support for the continued operation of suitable waste Sites (as determined by the above) and ensuring they are protected from encroachment of incompatible uses.

6.1.12 The provisions of policy MD14 of SAMDev (*Waste Management Facilities*), outline the support for proposals that 'can demonstrate that potential adverse impacts on the local community and Shropshire's natural and historic environment can be satisfactorily controlled'. For the purposes of this application, I have measured this by assessment against the NWPP (2014) criteria within Appendix B, amongst other relevant planning material considerations. MD14 also includes specific policy for certain waste development types, of which none are relevant to this application.

Additional to specific waste policy the proposal is also assessed against the following local policies which provide wider planning guidance:

### **Core Strategy (2011)**

- 6.1.13 CS4 – Market Towns and Other Key Centres
- Supports the focus of major development to key market towns and centres of which Ludlow is designated.
- CS6 – Sustainable Design and Development Principles
- Outlines design principles and approaches to support high quality-built form.
- CS8 – Facilities, Services and Infrastructure Provision
- Provides support to facilities, infrastructure and services that meet a need in accessible, appropriate locations.
- CS13 – Economic Development, Enterprise and Employment
- Supports development that bolsters Shropshire's Economy and provides employment opportunities, especially in key rural centres.

### **SAMDev (2015)**

- MD1 – Scale and Distribution of Development
- Focuses and supports development in key centres and towns.
- MD2 – Sustainable Design
- Provides additional design guidance to CS6 to support the development of high-quality schemes.
- MD9 – Protected Employment Areas
- Seeks to protect employment areas for B2 and suis generis uses that are compatible. The Site is located within a designated protected employment area.

### **Assessment**

- 6.1.14 In consideration of the national and local policy described, I conclude that the principle of a Biochar production facility at the Site is acceptable. I find that the principle is consistent with the National ambitions for waste development and compliant with the local plan.
- 6.1.15 The existing use of the Site evidences its suitability for a waste processing use and it remains commensurate with the protected employment area designation. The site, whilst not allocated within SAMDev, is accessible, near to an urban centre and consistent with national ambitions for waste developments. Therefore, it is consistent with the policy content of CS19. Assessment of compliance against MD14, as a policy framework for scheme details, is undertaken in subsequent sections.
- 6.1.16 In consideration of the NWPP (2014), as the proposal is compliant with the up-to-date Local Plan there is no requirement to justify a quantitative or market need for the proposal. Considering the broader policy landscape, the application is commensurate with the guiding focus of local policy to centralise employment/infrastructure development in Key centres, of which Ludlow is identified, ensuring its strategic location to deal with Shropshire's Waste.
- 6.1.17 Additionally, the proposal supports Shropshire, and the UK's wider sustainability move towards a low Carbon future through the application of emerging waste treatment technology that has proven environmental benefits against comparative operations.

6.1.18

Finally, I also consider that the transition from an existing unused waste facility to an alternative operation may also reduce the net potential impacts in comparison to development of an entirely new Site and should therefore be supported. The re-use of existing facilities/buildings is also consistent with the NWPPs guidance

6.1.19 for identifying suitable Sites when drafting local plans (Chapter 4).

Consequently, officers consider the principle of development is justified and assessment of the schemes details are undertaken in the following sections.

## 6.2 ***Scale and Design***

6.2.1 The proposed scheme fundamentally utilises the existing building on site to house the necessary equipment, with some additional works proposed. These additions include the following:

- Rear extension with roller shutters and a roof apex the same as the existing. The extension includes one chimney.
- Four chimneys on the existing building of which one will be higher than the roof apex
- Removal of three existing silos
- Retention of two silos with feed pipes added
- 3m high L shaped walls in the northeast and southeast of the Site for Feedstock Tip Handling
- Amended rear elevation window/door placements.

6.2.2

On review of the proposed changes to the built form, it is my conclusion that they are acceptable. The rear extension and chimneys have a minor visual impact especially in consideration of their rear (east direction) location. Their subsequent design is consistent with an industrialised business park setting, surrounded by other warehousing. The removal of an existing wide based silo will reduce the overall built form above the existing building line when viewing the Site from the West resulting in a net neutral visual change when balanced against the chimney inclusions. The proposed tipping walls, whilst high, will be visually recessive and minor in impact, owing to their narrow form and rearward locations backdropped by the tree belt. There is not concluded to be any visual concern regarding the variations in window/door placements and new roller shutters.

6.2.3

Consequently, the additions proposed will not, in my judgement, result in a dominating development or poor visual appearance. The building will remain consistent with the immediate surroundings and the alterations are attributed no harm in the planning balance.

## 6.3

6.3.1

### ***Residential Amenity***

Residential Amenity for this proposal has been assessed through noise, light, vibration and odour impacts. These are identified as being the parameters a development of the manner proposed could potentially impact a residential dwelling. It is identified that the nearest residential receptor would be >120 metres from the Sites building, a medium distance away. Each criterion is subsequently assessed individually with a collective assessment undertaken at the end.

### *Noise*

6.3.2 The most recently submitted noise report outlines the potential for an adverse impact on the nearest residential receptor. The most recent comments from the Environment Protection Officer however outline no objection on noise grounds, subject to clarification of certain operations/details and appropriate conditions. A revised noise assessment (submitted 11<sup>th</sup> February 2025) addresses these clarification points, incorporating an amended operating model and chipper roller door location. This aims to further mitigate the chippers noise impact, as the largest noise generator on-site.

6.3.3 It is my opinion, that on review of the amended elevations, amended noise assessment and Officer comments, that these clarifications/amendments are sufficient to determine that, subject to the application of noise management conditions, there is limited harm to any nearby residential amenity as a result of this development.

It is also noted that the Environmental Permit required will also control noise levels.

6.3.4

### *Lighting*

6.3.5 The operation of the Site requires limited outdoor lighting which would likely be principally focused to the rear of the Site/building. In conjunction with a lighting management plan for ecological reasons, it is not concluded that external lighting would have any harmful impact on any residential amenity, in context of separation distances and other large buildings between the Site and the nearest residential receptor.

I attribute no harm to residential amenity due to external lighting in the planning balance.

6.3.6

### *Vibration and Dust*

The proposed equipment on site is not of a scale, type or operation that would likely cause any ground vibration.

6.3.7

6.3.8 The movement of feedstock at the scale proposed is not likely to generate any substantial dust considering its 50% moisture content. Dust generated by the chipper will be contained within the building and if any does reach outside, it is in the opposite direction (eastward) from the residential receptors.

Therefore, I attribute no harm to residential amenity by vibration or dust in the planning balance

6.3.9

### *Odour*

6.3.10 In consideration of the environmental protection officer comments, it is agreed that odour generation at the Site is not expected, considering the operational processes outlined and suggested management plan. Consequently, odour issues would only occur through poor management practices or system failures. Suitable management/operational processes will mitigate any potential for odour generation and would be appropriately applied to the Site.

- 6.3.11 In consideration of the NWPP, this would be controlled through the environmental permit, instead of planning condition. However, as there is not yet a permit in place, with express controls applied, in this instance I attribute limited weight in the planning balance to the potential harms of odour generation. This is determined by balancing the likelihood of occurrence being very low against the lack of current express control.

*Overall*

- 6.3.12 In consideration of the above officers consider that the collective harms on residential amenity are attributed limited harm in the planning balance. The impacts, subject to conditions, are unlikely to occur or have a recognisable impact. Therefore, in consideration of avoiding crossover with the Environmental Permit, officers conclude that the proposed development does not have an unacceptable impact on residential amenity to justify a planning refusal recommendation.

***Air Quality***

- 6.4 Air quality impacts of the proposed development is mostly subject to assessment through the Environmental Permit Regulations 2016 which determines the acceptability of pollutant levels against defined criteria. Consequently, only a short assessment to determine the air quality impact doesn't meet the threshold of 'unacceptable' in planning terms has been undertaken to avoid excessive regulation through planning and permitting discouraged in the NWPP (2014).

- 6.4.2 The submitted air quality assessment was reviewed by the Environmental Protection Officer, who pertains the necessary expertise to ensure its validity. It is identified in their subsequent comments that the Air Quality Assessment likely overestimates some predicted emissions and that the results could be considered a 'worst case' assessment.

- 6.4.3 With this context, the assessments concluded that the proposed use pollutant concentrations were predicted to be within the environmental quality standards (EQS) at all receptor locations and by consequence the impact on human receptors is not considered significant. Recognising the assessment presents a 'worst case' scenario, with reasonable caution applied, it can be concluded that the air quality impacts have a reasonably high likelihood of being less than calculated, which are already below the required standards.

- 6.4.4 Resultantly, officers determine that the proposed development does not have an unacceptable impact on Air Quality to justify a planning refusal recommendation but is attributed limited harm in the planning balance due to the inevitable release of emissions/environmental impact.

***Ecology***

- 6.5 The Site is subject to Biodiversity Net Gain which will be provided on-site. A 26.23% gain is calculated. As the gain is substantially above the 10% requirement by planning law, limited weight is attributed to the overprovision as a benefit to the scheme in the planning balance.

- 6.5.2 There are no sensitive/protected species on Site and the Shadow Habitats Regulations Assessment evidences there is unlikely to be any significant effect

on nearby ecological designation, including SSSIs. There is no objection by the Ecology Officer to the scheme subject to conditions. However, as there is still a small chance of impact on nearby SSSIs officers apportion limited weight to potential harm on ecological designations.

- 6.5.3 Overall, considering the chance of harmful impact to ecological designations is unlikely and enhanced BNG on Site is a substantial benefit that would in part mitigate any harms, the scheme will have an overall positive benefit impact in ecology terms and is attributed limited weight in favour of the scheme.

### ***Highways***

- 6.6 In agreement with the Highway Officer the development is acceptable in highway matters subject to a Construction Management Plan (CMP) condition. The extant use has the capability to generate similar trips numbers and type as the proposed, where there is clear, easy and safe access to the principal movement network of Codor Road and the A49.
- 6.6.1

- 6.6.2 Additionally, the site has sufficient parking space to accommodate the expected vehicles when parked off the adjacent highway network at any one time.

- 6.6.3 Consequently, the development will not harmfully compromise highway safety or congest the local road network. No harm to highways is attributed in the planning balance.

### ***Trees***

- 6.7 Trees are a material planning consideration for any planning decision. The Site has an absence of mature valuable trees within the red line, but is immediately adjacent to an established important belt of trees between the Site and the A49. In particular, there is an oak tree in this belt that is protected under a Tree Protection Order (TPO).
- 6.7.1

- 6.7.2 The proposed walls to support tip handling is the development most likely to impact on any Root Protection Area (RPA) of the Tree Belt. In agreement with the Tree Officer there is unlikely to be any significant loss of vegetation by the proposed development and where potential impacts may occur (within RPAs) suitably worded conditions are an appropriate mitigation to avoid any unacceptable harms.

No harm to trees is attributed in the planning balance.

- 6.7.3 ***Other Issues***

### ***Drainage***

- 6.8 There is not concluded to be an unacceptable risk of flooding caused by the proposed development, as evidenced by the proposed drainage scheme and determined by the drainage officer. Additionally, the proposed drainage scheme will connect to existing sewerage networks and will not discharge to groundwater. The water used in the pyrolysis plant will be consumed during operation.
- 6.8.1

### ***Land Stability***



6.8.2 The site is not within an area identified for land stability concerns and is the re-use of a Site that has existed for a significant period of time.

*Vermin/Birds*

6.8.3 The waste in use at the Site is not of a type that will attract vermin or birds.

*Litter*

6.8.4 The waste proposed to be transported to the Site is not domestic and there is a Very low risk of any substantial litter problems.

*Land Use Conflict*

6.8.5 The development proposed is suitable for the protected employment land it is located. It is not in conflict with adjacent B2 uses currently or at risk of becoming incompatible in the future.

*Historic Environment*

6.8.6 The development will have no impact on the historic buildings and landscapes of Ludlow.

7.0 **CONCLUSION**

7.0.1 In compliance with the NWPP, officers have come to this recommendation on the assumption that the relevant pollution control regime will be properly applied and enforced (via the environmental permit).

7.0.2 The proposed development provides important facilities in progressing towards a low carbon future, the management of waste within Shropshire and the development of sustainable places. The principle of development is established through policy CS19 of the Core Strategy and the proposal is consistent with National Ambitions for waste planning.

7.0.3 A comprehensive assessment of planning material considerations was undertaken, where limited harms to residential amenity and air quality were identified. However, the cumulative harms are not unacceptable or sufficient to justify a planning refusal recommendation. The impacts are unlikely to be significant and will be mitigated/controlled through the suitable regulatory function where appropriate.

7.0.4 Considering the wider planning balance, the limited harms identified are concluded to be outweighed by the public benefits of a scheme consistent with policy, providing ecological benefit through BNG overprovision and making effective use of an existing Site to provide critical infrastructure for Shropshire. Equally it was found there was no material harm to trees, highways, visual appearance or wider landscape as a result of the development, subject to planning conditions. Therefore, it is concluded that the proposal 'can demonstrate that potential adverse impacts on the local community and Shropshire's natural and historic environment can be satisfactorily controlled' as required by SAMDev policy MD14.

7.0.5

Overall, officers find that the benefits of the proposed scheme outweigh in the planning balance the limited harms identified and recommend that planning permission should be granted 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.

## 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:

NPPF

Core Strategy and Saved Policies:

CS6

SAMDev MD2

SAMDev MD13

### RELEVANT PLANNING HISTORY:

SC/ML2005/16570/SS - Biowaste digester to recycle household organic waste - Permitted  
23.3.2005

## 11. Additional Information

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

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|--|
| List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) |
|  |
| Local Member   |
| Cllr Vivienne Parry  |
|  |

## 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.

3a) No retained tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the LPA. Any approved tree works shall be carried out in accordance British Standard 3998: 2010 Tree Work - Recommendations, or its current version.

b) Prior to commencement of development, a scheme shall be submitted to the written satisfaction of the LPA to safeguard trees, woody shrubs and hedges to be retained on and adjacent the site. The scheme shall be based upon a tree survey and Arboricultural Impact Assessment and include an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP), prepared in accordance with and meeting the minimum tree protection requirements recommended in, British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction Recommendations, or its current version. The AMS shall include if appropriate a description of how the foundations for the feedstock tip handling walls are to be constructed within the root protection area of any nearby tree, so as to avoid causing significant damage to the roots of such a tree. Any pre-commencement tree works and all tree protection measures detailed in the approved AMS and TPP shall be fully implemented to the written satisfaction of the LPA, before any development-related equipment, materials or machinery are brought onto the site.

c) The development shall be implemented in accordance with the approved AMS and TPP. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

d) All services and drainage infrastructure will be routed outside the Root Protection Areas indicated on the approved TPP or, where this is not possible, a detailed method statement and task specific TPP will be submitted and approved in writing by the LPA prior to any work commencing on site. Thereafter the development shall be carried out strictly in accordance with the approved method statement and tree protection plan.

e) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The LPA will be informed of the identity of said person.

Reason: to safeguard the amenities of the local area and to protect the natural features that

contribute towards this and that are important to the appearance of the development.

4 a) No works associated with the development will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a landscaping scheme, prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape Recommendations, or its current version, has been submitted to and approved in writing by the LPA. The approved scheme shall include details as relevant of ground preparation, planting pit specification and the trees and shrubs to be planted in association with the development (including species, locations or density and planting pattern, type of planting stock and size at planting), means of protection and support and measures for post-planting maintenance.

b) The approved landscaping scheme shall be implemented as specified and completed prior to first use of the development for its intended purpose. If within a period of five years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the LPA becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

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

5. 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 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), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) 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 192 of the NPPF.

6. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/23 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

7. Prior to commencement of development a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i. Hours of operation;

- ii. Measures to control noise and dust impact
  - iii. Onsite parking provision
  - iv. Details of material storage and welfare facilities
  - v. Method of preventing mud being carried onto the highway/
- The agreed plan shall be adhered to throughout the construction period.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development and to ensure that the amenity that neighbouring occupiers can reasonably expect to enjoy are adequately protected in accordance with Policy CS6 of the Core Strategy.

8. Prior to occupation of the Site, a noise management plan shall be submitted and approved in writing by Local Planning Authority (LPA). The measures identified and approved by the LPA shall be implemented and maintained at all times thereafter in accordance with the approved plan.

Reason: In the interests of protecting residential amenity.

9. The chipping machinery shall not be operated or delivery vehicles permitted on to the premises before 0800 or after 1730 on weekdays nor before 0900 or after 1330 on Saturdays and not at any times on Sundays or Bank holidays.

Reason: In the interests of protecting residential amenity.