

Eddie West
Local Plan Team Leader
Shropshire Council, Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

By email only:
Planningpolicy@Shropshire.gov.uk

Our Ref: SA26010/ST/ML
Date: 1st February 2021

Dear Eddie,

Shropshire Local Plan – Regulation 19 consultation

Our client, AFM Farming LLP, have the following comments on the emerging Shropshire Local Plan. For your ease of use these are also replicated on the attached forms:

Part A: Consultees' details

Part B: representations on:

- Policy: Strategic Policy SP2 'Strategic Approach'
- Policy: Settlement Policy S17.1 - 'Development Strategy: Wem Key Centre'
- Policy Map: Inset S17 - 'Wem'

- **Strategic Policy SP2 'Strategic Approach'**

This policy's aspiration to accommodate, "investment and new development that contributes to meeting needs and making its settlements more sustainable" is supported.

The identification of Wem as a Key Centre accords with the Local Plan's vision in this regard, given Wem's strategic location on the A49 corridor with excellent connections to Shrewsbury and other English regions to the north.

- **Settlement Policy S17.1 – 'Development Strategy: Wem Key Centre'; and**
- **Inset S17 – 'Wem'**

- **Q4. Why the Plan is unsound**

The designation of Wem as a Key Centre settlement in Policy S17.1 is strongly supported as this is seen as vital to ensuring the town's long-term future.

Wem is a sizeable settlement of over 6,000 residents. It has a very good range of services and facilities, scoring 102 points in the Council's 'Hierarchy of Settlements' Paper (August 2020) and ranking 1st among the Plan's 11 Key Centres.

In addition, the explanatory text to policy S17.1 identifies that due to Wem's strategic transport links (including main Crewe-Shrewsbury rail line) the settlement "contributes towards the strategic growth objectives in the north-east of the County". In this regard,

Paragraph 3.142(e) specifically identifies Wem as a Key Centre on a Strategic Corridor and Policy SP14: Strategic Corridors states that the “Shropshire Economic Growth Strategy seeks to deliver a ‘step change’ in the capacity and productivity of the local economy. To contribute to this aim, ‘Strategic Corridors’ along the principal rail and strategic road routes through the County will be the primary focus for major development especially along ‘strategic corridors’ with both rail and road connectivity”. It is evident, therefore, that Wem should be a significant centre for growth in Shropshire, both socially and economically.

Despite the town's good sustainability credentials, the submission Local Plan places a significant reliance on windfall development to meet the needs of the town over the Plan period, with an additional 89 dwellings as windfall (unplanned development). Given the strategic importance of growth being directed to Wem such a reliance on windfall development is considered inappropriate.

Policy S17.1 also proposes a low level of growth, despite high demand for housing in Wem and a significant affordability problem.

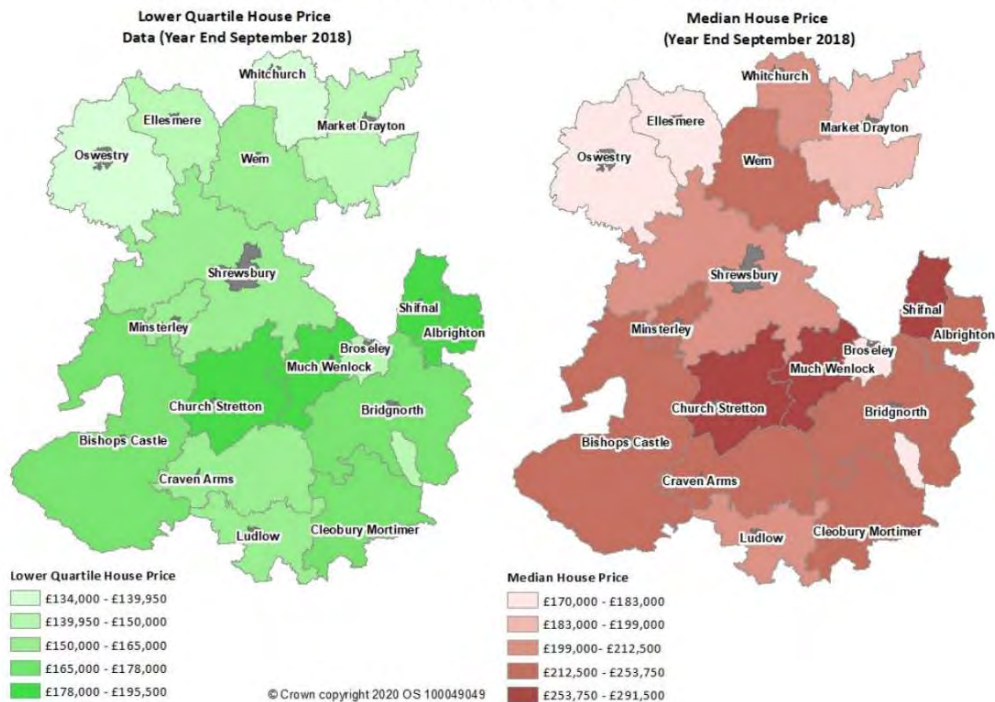
In addition, in grouping proposed housing allocations in the north-west of the settlement the distribution of growth is likely to give rise to significant pressure, and therefore unacceptable impacts, at pinch points on the existing highway network.

The reasons we consider the Plan fails the 'positively prepared', 'justified' and 'effective' tests of soundness are elaborated further below,

Wem's housing needs

There is high demand for housing and an affordability problem in Wem, as shown by the median house price and lower quartile house prices respectively in figure 81 of the Strategic Housing Market Assessment, reproduced below.

Figure 81: Lower Quartile and Median House Prices Mapped By Place Plan Area



Over the previous plan period, Wem has delivered an average of 32.8 dwellings per annum (in total 426 dwellings over the 13 years 2006-2019), according to the Council's latest available 'Five Year Housing Land Supply Statement' (March 2020). This is reflected in the first row in figure 1 below.

Despite these facts, the submission Local Plan proposes an unjustifiably low level of growth of only 600 dwellings over 22 years, equivalent to only 27.2 dwellings per annum over 2016-2038 as shown in the second row in figure 1 below. There is no justification for such a reduction in delivery rates.

The level of growth planned for Wem is equivalent to only 20.8% over the plan period, less than the Shropshire-wide growth rate of 21.9% as shown in the third row in figure 1 below. This lower rate of growth in a settlement considered to be of strategic importance, where the Shropshire Economic Growth Strategy seeks to deliver a 'step change' in the capacity and productivity of the local economy, fails the 'justified' and 'positively prepared' tests of soundness.

Figure 1. Relative growth rates

Geography	2016 no. dwellings	Growth	% change 2016-2038	Dwellings per annum
Wem 2006/7 - 2018/19		426 dwellings ¹ over 13 years		32.8
Wem Policy S17.1	2,879 ²	600 dwellings over 22 years	20.8%	27.2
Shropshire Policy SP2	140,524 ³	30,800 dwellings over 22 years	21.9%	1,400

Sources:

¹ Shropshire Five Year Housing Land Supply Statement 2020, page 31

² Hierarchy of Settlements Paper (August 2020)

³ No. dwellings at 2016, Strategic Housing Market Assessment Part One, page 62, figure 54

Housing pressure and sustainability

The latest 2018-based household projections from the Office of National Statistics forecast a 26.9% growth in households in Shropshire over the plan period as shown in figure 2 below. If this county-wide growth rate is reflected in Wem, it will result in demand for 774 more dwellings over the plan period (26.9% x the existing 2,879 dwellings in the town²).

Figure 2. Office of National Statistics Household projections

Shropshire	2016 no. households	2038 no. households	Change 2016-2038	% change	Rate per annum
2014-based projections	123,886	147,635	23,749	19.2%	1,080
2018-based projections	135,452	171,876	36,424	26.9%	1,656

In practice, Wem's popularity is likely to attract a higher level of demand than the county average, as illustrated by the high demand reflected in the house prices in the SHMA.

A low rate of housing development will result in strong pressure on house prices, making the town even less affordable for local people and further undermining its social and economic sustainability.

Wem Site Allocations

- *Saved SAMDev Housing Allocation WEM003*

This site has been allocated for a number of years but remains undeveloped. In addition, the only planning application submitted for the site's development was an outline application (ref. 20/01054/OUT) submitted in March 2020, which was subsequently refused, with one of the reasons for refusal stating that "whilst it is acknowledged most of the site is allocated for housing in accordance with the Shropshire local development plan, it is considered that based on the information in support of the proposal, that any benefits are not outweighed by the significant visual and biodiversity harm as a result of the proposed development".

Paragraph 67 of the National Planning Policy Framework (NPPF) identifies that "Planning policies should identify a supply of:

- a) specific, deliverable sites for years one to five of the plan period; and
- b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan".

In this regard, the National Planning Policy Framework provides the following definitions:

Deliverable - To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Developable - To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.

Given the above, it is contended that site WEM003 does not meet with the definition of a 'deliverable' site and considerable uncertainty remains as to whether it may be considered 'developable'.

In addition, and significantly, Schedule S17.1(i) of Policy S17.1 states that Local Plan Housing Allocation WEM010 is to be a second phase to the saved allocation WEM003. The same uncertainties are therefore equally applicable to the proposed allocation as to the existing allocation. This is considered further in the comments on WEM010 (below).

- ***Local Plan Housing Allocation WEM010***

Housing allocation WEM010 is proposed as an extension to the saved SAMDev housing allocation WEM003. Therefore, the considerable uncertainty surrounding whether WEM003 is deliverable or developable is equally applicable to housing allocation WEM010.

There is also additional uncertainty over whether WEM010 is deliverable or developable due to potential surface and foul water drainage constraints in this area of the town.

In addition and significantly, housing allocation WEM010 is located on the opposite side of the town to the main employment areas of the town and area (on Church Lane and at Wem Industrial Estate) and the strategic road link to larger towns (including Shrewsbury). It is also some distance from Wem railway station. The site is therefore in a poor location in terms of access to strategic transport links and its development will exacerbate congestion issues in the town centre as residents travel through the town centre to access employment opportunities and the services and facilities provided in other larger settlements.

In summary, it is considered that the identification of housing allocation WEM010 is not justified as:

- There is significant uncertainty over whether the site is deliverable and developable and therefore whether it will contribute to ensuring that the overall dwelling requirement of Wem is met; and
- The site's development will result in unsustainable patterns of travel that would give rise to increased traffic congestion within the town.

It is therefore contended that site WEM035 represents a far more sustainable, deliverable and developable housing site than site WEM010.

- ***Local Plan Housing Allocation WEM025***

Housing allocation WEM025 is located in close proximity to housing allocation WEM010 and saved SAMDev allocation WEM003. In combination, these three sites have an indicative capacity of 250 dwellings, which is a significant proportion of the housing growth for the town and will result in significant demands being placed upon the infrastructure serving this part of the town, including highway and drainage infrastructure.

There is significant uncertainty over whether the infrastructure serving this part of the town is capable of accommodating the additional development proposed on these three sites. As previously detailed, these sites are in a location that is on the opposite side of the town to its main employment areas and the strategic road link

to larger towns (including Shrewsbury). In addition, they are some distance from Wem railway station. These sites are therefore in a poor location in terms of access to strategic transport links and their development will exacerbate congestion issues in the town centre as residents travel through the town centre to access employment opportunities and the services and facilities provided in other larger settlements.

In summary, it is considered that the identification of housing allocation WEM025 is not justified. Development on the site, in combination with development on housing allocation WEM010 and existing housing allocation WEM003, will result in unsustainable patterns of travel and unacceptable adverse impacts upon the physical and social infrastructure of this part of the town.

It is therefore contended that some of the quantum of development proposed in this location is directed to site WEM035, as it represents a far more sustainable location for housing development.

- *Local Plan Housing Allocation WEM033*

Housing allocation WEM033 is located to the north of the town, some distance from the other proposed housing allocations and the existing SAMDev housing allocation.

Nonetheless, whilst closer to the town's main employment areas and the A49 link to Shrewsbury, it is on the opposite side of the rail line and its development is therefore considered likely to exacerbate congestion issues around the rail crossing in the town as residents travel to access employment opportunities and the services and facilities provided in larger settlements.

It is therefore considered that the identification of housing allocation WEM033 is not justified. Development on the site will result in unsustainable patterns of travel and unacceptable adverse impacts upon the physical infrastructure of the town.

It is therefore contended that the development proposed on preferred housing allocation WEM033 be directed to site WEM035, as it represents a far more sustainable location for housing development.

Site WEM035 – “Land off Soulton Road, Wem”

WEM035 has been subject to assessment by the Council as part of the Plan preparation process. This assessment concludes that the site is “compromised by its remote location and is further compromised by highway and traffic issues associated with the rail crossing. The cost and complexity of addressing this significantly exceeds the scale of the development proposed”.

It is evident, from the assessment undertaken by the Council, that whilst it has been recognised that site WEM035 is unconstrained, available and deliverable, the site has not been allocated due to its location on the opposite side of the rail line to the town centre and its distance from services and facilities (when compared to the sites proposed for allocation).

In response, it is contended that whilst WEM035 may be slightly further away from certain community services and facilities (primarily play areas and amenity green space) given the size of the land available such provision may be provided on site.

BERRYS

Of far more significance in terms of the sustainability of the site's location, and which has failed to be recognised by the Council's assessment of the sites in Wem, is that the site is located:

- In close proximity to, and on the same side of the town centre as, the main employment areas of the town (on Church Lane and at Wem Industrial Estate); and
- On the same side of the town as the A49 and in very close proximity to Wem railway station, the strategic road and rail links to larger towns and the services and facilities they provide.

These locational considerations, whilst ignored in the Council's assessment of sites, are of greatest significance when allocating sites in Wem as the settlement suffers from severe congestion issues, not only at the rail crossing but also elsewhere in the town centre.

It is accepted that residents on the existing and proposed housing allocations would likely choose sustainable forms of travel (e.g. walking and cycling) to access services and facilities such as schools (in accordance with the Council's school transport provision policy) and the leisure centre in the town centre. However, this would be equally applicable for residents on site WEM035.

However, it is considered that the proposed housing allocations WEM010, WEM025 and WEM033 will exacerbate congestion issues in the town centre as residents on these sites will have to travel through the town centre to access employment opportunities and the services and facilities provided in other larger settlements (most notably Shrewsbury) and will therefore give rise to unacceptable adverse impacts upon the town centre (such as Maund's Corner).

In addition, it is significant that site WEM035 has been subject of a recent outline planning application for residential development of up to 35 dwellings (ref. 15/03710/OUT). Whilst this application was refused, and a subsequent Appeal dismissed (ref. APP/L3245/W/16/3141912), attention is drawn to:

- i. the information submitted in support of the application (including the Ecological Survey Report and the Highways & Drainage Report (including Flood Risk Assessment) included at Appendices 1 and 2 respectively of this representation);
- ii. the Council's decision notice (included at Appendix 3 of this representation); and
- iii. the Appeal Decision (included at Appendix 4 of this representation)

It is evident from the information contained in these Appendices that the outline application for up to 37 dwellings on WEM035 was only dismissed on a point of principle, with no technical reasons (such as highway and traffic reasons) given for the refusal / dismissal of the application.

In summary, it is considered that the proposed development boundary for Wem should be amended to include housing site WEM035, in whole or part, to ensure that:

- the overall dwelling requirement of 600 dwellings for Wem will be met;
- housing opportunities are provided close to existing employment opportunities; and
- the potential impact of further housing development in Wem on the settlement's highway infrastructure is acceptably managed.

Conclusion

Policy S17.1 fails the 'positively prepared', 'justified' and 'effective' tests of soundness for the reasons set out above, including:

- the low level of growth for Wem;
- over-reliance on windfall development;
- the significant concerns over the deliverability and developability of existing and proposed housing allocations;
- the impact of the proposed distribution of housing growth in the town on existing infrastructure (including the rail crossing); and
- the availability of an appropriately located, unconstrained, available and deliverable alternative site (WEM035)

- **Q5 Modifications necessary to make the Plan sound**

To make the Plan 'sound' requires either an increase in the housing allocation requirement for Wem or the redistribution of housing to alternative allocations in the settlement to ensure that the housing needs of the settlement are addressed, and no unacceptable adverse impacts upon existing infrastructure arise, during the Plan period.

Policy S17.1 and the Wem Policies Map should therefore be amended to include part of our client's land (site reference WEM035), within the development boundary of the settlement and allocated for residential development for up to 40 dwellings, along the lines of the indicative plan included as Appendix 5 of this representation. The plan at Appendix 5 is illustrative only at this stage; however, the proposal is to deliver a good mix of 2, 3 and 4 bedroom properties with a large area of open space. There is the option to consider the use of this open space as allotments for the town together with a children's play area which would be for use by the community. In addition, we are willing to offer 15% of the site as designated affordable housing. This is more than the proposed policy requirement of 10%.

There are no constraints to the site, and no objections from the Highways Authority to the development. There would also be a footway linking the site with the town centre and it would be safe and easy to walk into town by foot or bike. The site does not compromise air quality in the town or around the school and being close to two employment sites it will reduce the need to travel by car. If residents of the site are travelling to work, then they are more than likely to access the A49 via Soulton road to the east rather than travelling through the town and adding to congestion.

Our client's are also extremely keen to ensure that the development promotes sustainable development and uses resources efficiently and are therefore committing to ensure that a minimum of 10% of the predicted energy needs of the development will be generated from on-site renewable and low carbon sources. There will also be a net gain in biodiversity on the site. It is widely accepted that domestic gardens are usually more ecologically diverse than agricultural land and all house designs would include bat and bird nesting boxes together with green well landscaped gardens and amenity areas.

In summary, the allocation of WEM035 would result in a greater level of certainty that the aims and objectives of the Plan, including the strategic growth objectives in the north-east of the County, will be realised over the Plan period. In addition, the allocation of this land, will deliver the important community benefits set out in this letter whilst also ensuring that unacceptable adverse impacts on existing infrastructure do not arise during the Plan period.

- **Next Stages**

I trust you will take these representations into account. If you have any queries whatsoever, please don't hesitate to contact me to discuss.

Yours sincerely,

Stuart Thomas

Stuart Thomas BA(Hons) MA MRTPI
Head of Planning
For and on behalf of Berrys
DDI: 01743 267069
stuart.thomas@berrys.uk.com

Representation Form

Please complete a separate **Part B Representation Form** (this part) for each representation that you would like to make. One **Part A Representation Form** must be enclosed with your **Part B Representation Form(s)**.

We have also published a separate **Guidance Note** to explain the terms used and to assist in making effective representations.

Part B: Representation

Name and Organisation: Mr Stuart Thomas (BERRYS) on behalf of AFM Farming LLP

Q1. To which document does this representation relate?

- Regulation 19: Pre-Submission Draft of the Shropshire Local Plan
- Sustainability Appraisal of the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan
- Habitats Regulations Assessment of the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan

(Please tick one box)

Q2. To which part of the document does this representation relate?

Paragraph: Policy: S17.1 Site: Policies Map: S17 Wem

Q3. Do you consider the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan is:

- A. Legally compliant Yes: No:
- B. Sound Yes: No:
- C. Compliant with the Duty to Co-operate Yes: No:

(Please tick as appropriate).

Q4. Please give details of why you consider the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Please see overleaf.

(Please continue on a separate sheet if necessary)

- **Q4. Why the Plan is unsound**

The designation of Wem as a Key Centre settlement in Policy S17.1 is strongly supported as this is seen as vital to ensuring the town's long-term future.

Wem is a sizeable settlement of over 6,000 residents. It has a very good range of services and facilities, scoring 102 points in the Council's 'Hierarchy of Settlements' Paper (August 2020) and ranking 1st among the Plan's 11 Key Centres.

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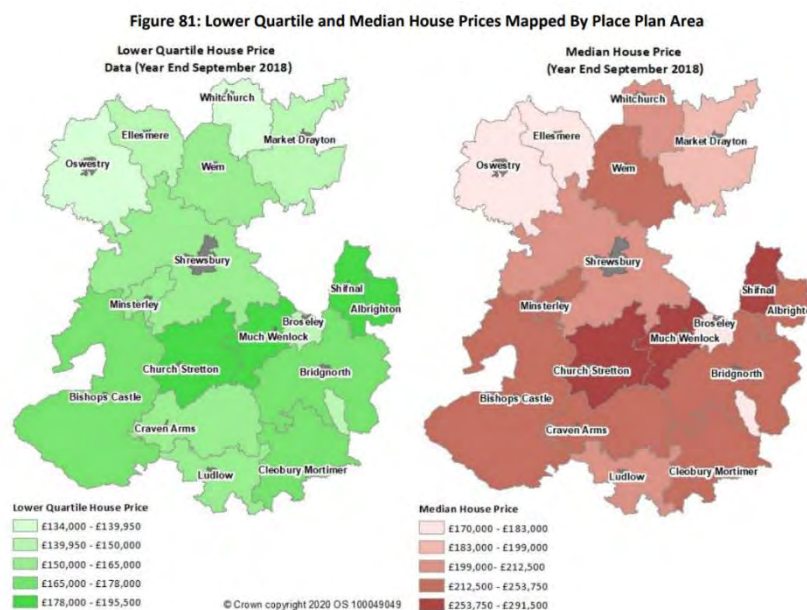
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In addition, in grouping proposed housing allocations in the north-west of the settlement the distribution of growth is likely to give rise to significant pressure, and therefore unacceptable impacts, at pinch points on the existing highway network.

The reasons we consider the Plan fails the 'positively prepared', 'justified' and 'effective' tests of soundness are elaborated further below,

Wem's housing needs

There is high demand for housing and an affordability problem in Wem, as shown by the median house price and lower quartile house prices respectively in figure 81 of the Strategic Housing Market Assessment, reproduced below.



Over the previous plan period, Wem has delivered an average of 32.8 dwellings per annum (in total 426 dwellings over the 13 years 2006-2019), according to the Council's latest available 'Five Year Housing Land Supply Statement' (March 2020). This is reflected in the first row in figure 1 below.

Despite these facts, the submission Local Plan proposes an unjustifiably low level of growth of only 600 dwellings over 22 years, equivalent to only 27.2 dwellings per annum over 2016-2038 as shown in the second row in figure 1 below. There is no justification for such a reduction in delivery rates.

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Figure 1. Relative growth rates

Geography	2016 no. dwellings	Growth	% change 2016-2038	Dwellings per annum
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Sources:

¹ Shropshire Five Year Housing Land Supply Statement 2020, page 31

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³ No. dwellings at 2016, Strategic Housing Market Assessment Part One, page 62, figure 54

Housing pressure and sustainability

The latest 2018-based household projections from the Office of National Statistics forecast a 26.9% growth in households in Shropshire over the plan period as shown in figure 2 below. If this county-wide growth rate is reflected in Wem, it will result in demand for 774 more dwellings over the plan period (26.9% x the existing 2,879 dwellings in the town²).

Figure 2. Office of National Statistics Household projections

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A low rate of housing development will result in strong pressure on house prices, making the town even less affordable for local people and further undermining its social and economic sustainability.

Wem Site Allocations

- *Saved SAMDev Housing Allocation WEM003*

This site has been allocated for a number of years but remains undeveloped. In addition, the only planning application submitted for the site's development was an outline application (ref. 20/01054/OUT) submitted in March 2020, which was subsequently refused, with one of the reasons for refusal stating that "whilst it is acknowledged most of the site is allocated for housing in accordance with the Shropshire local development plan, it is considered that based on the information in support of the proposal, that any benefits are not outweighed by the significant visual and biodiversity harm as a result of the proposed development".

Paragraph 67 of the National Planning Policy Framework (NPPF) identifies that "Planning policies should identify a supply of:

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In this regard, the National Planning Policy Framework provides the following definitions:

Deliverable - To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

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- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Developable - To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.

Given the above, it is contended that site WEM003 does not meet with the definition of a 'deliverable' site and considerable uncertainty remains as to whether it may be considered 'developable'.

In addition, and significantly, Schedule S17.1(i) of Policy S17.1 states that Local Plan Housing Allocation WEM010 is to be a second phase to the saved allocation WEM003. The same uncertainties are therefore equally applicable to the proposed allocation as to the existing allocation. This is considered further in the comments on WEM010 (below).

- *Local Plan Housing Allocation WEM010*

Housing allocation WEM010 is proposed as an extension to the saved SAMDev housing allocation WEM003. Therefore, the considerable uncertainty surrounding whether WEM003 is deliverable or developable is equally applicable to housing allocation WEM010.

There is also additional uncertainty over whether WEM010 is deliverable or developable due to potential surface and foul water drainage constraints in this area of the town.

In addition and significantly, housing allocation WEM010 is located on the opposite side of the town to the main employment areas of the town and area (on Church Lane and at Wem Industrial Estate) and the strategic road link to larger towns (including Shrewsbury). It is also some distance from Wem railway station. The site is therefore in a poor location in terms of access to strategic transport links and its development will exacerbate congestion issues in the town centre as

residents travel through the town centre to access employment opportunities and the services and facilities provided in other larger settlements.

In summary, it is considered that the identification of housing allocation WEM010 is not justified as:

- There is significant uncertainty over whether the site is deliverable and developable and therefore whether it will contribute to ensuring that the overall dwelling requirement of Wem is met; and
- The site's development will result in unsustainable patterns of travel that would give rise to increased traffic congestion within the town.

It is therefore contended that site WEM035 represents a far more sustainable, deliverable and developable housing site than site WEM010.

- ***Local Plan Housing Allocation WEM025***

Housing allocation WEM025 is located in close proximity to housing allocation WEM010 and saved SAMDev allocation WEM003. In combination, these three sites have an indicative capacity of 250 dwellings, which is a significant proportion of the housing growth for the town and will result in significant demands being placed upon the infrastructure serving this part of the town, including highway and drainage infrastructure.

There is significant uncertainty over whether the infrastructure serving this part of the town is capable of accommodating the additional development proposed on these three sites. As previously detailed, these sites are in a location that is on the opposite side of the town to its main employment areas and the strategic road link to larger towns (including Shrewsbury). In addition, they are some distance from Wem railway station. These sites are therefore in a poor location in terms of access to strategic transport links and their development will exacerbate congestion issues in the town centre as residents travel through the town centre to access employment opportunities and the services and facilities provided in other larger settlements.

In summary, it is considered that the identification of housing allocation WEM025 is not justified. Development on the site, in combination with development on housing allocation WEM010 and existing housing allocation WEM003, will result in unsustainable patterns of travel and unacceptable adverse impacts upon the physical and social infrastructure of this part of the town.

It is therefore contended that some of the quantum of development proposed in this location is directed to site WEM035, as it represents a far more sustainable location for housing development.

- ***Local Plan Housing Allocation WEM033***

Housing allocation WEM033 is located to the north of the town, some distance from the other proposed housing allocations and the existing SAMDev housing allocation.

Nonetheless, whilst closer to the town's main employment areas and the A49 link to Shrewsbury, it is on the opposite side of the rail line and its development

is therefore considered likely to exacerbate congestion issues around the rail crossing in the town as residents travel to access employment opportunities and the services and facilities provided in larger settlements.

It is therefore considered that the identification of housing allocation WEM033 is not justified. Development on the site will result in unsustainable patterns of travel and unacceptable adverse impacts upon the physical infrastructure of the town.

It is therefore contended that the development proposed on preferred housing allocation WEM033 be directed to site WEM035, as it represents a far more sustainable location for housing development.

Site WEM035 – “Land off Soulton Road, Wem”

WEM035 has been subject to assessment by the Council as part of the Plan preparation

process. This assessment concludes that the site is “compromised by its remote location and is further compromised by highway and traffic issues associated with the rail crossing. The cost and complexity of addressing this significantly exceeds the scale of the development proposed”.

It is evident, from the assessment undertaken by the Council, that whilst it has been recognised that site WEM035 is unconstrained, available and deliverable, the site has not been allocated due to its location on the opposite side of the rail line to the town centre and its distance from services and facilities (when compared to the sites proposed for allocation).

In response, it is contended that whilst WEM035 may be slightly further away from certain community services and facilities (primarily play areas and amenity green space) given the size of the land available such provision may be provided on site. Of far more significance in terms of the sustainability of the site’s location, and which has failed to be recognised by the Council’s assessment of the sites in Wem, is that the site is located:

- In close proximity to, and on the same side of the town centre as, the main employment areas of the town (on Church Lane and at Wem Industrial Estate); and
- On the same side of the town as the A49 and in very close proximity to Wem railway station, the strategic road and rail links to larger towns and the services and facilities they provide.

These locational considerations, whilst ignored in the Council’s assessment of sites, are of greatest significance when allocating sites in Wem as the settlement suffers from severe congestion issues, not only at the rail crossing but also elsewhere in the town centre.

It is accepted that residents on the existing and proposed housing allocations would likely choose sustainable forms of travel (e.g. walking and cycling) to access services and facilities such as schools (in accordance with the Council’s school transport provision policy) and the leisure centre in the town centre. However, this would be equally applicable for residents on site WEM035.

However, it is considered that the proposed housing allocations WEM010, WEM025 and WEM033 will exacerbate congestion issues in the town centre as residents on these sites will have to travel through the town centre to access employment opportunities and the services and facilities provided in other larger settlements (most notably Shrewsbury) and will therefore give rise to unacceptable adverse impacts upon the town centre (such as Maund’s Corner).

In addition, it is significant that site WEM035 has been subject of a recent outline planning application for residential development of up to 35 dwellings (ref. 15/03710/OUT). Whilst this application was refused, and a subsequent Appeal dismissed (ref. APP/L3245/W/16/3141912), attention is drawn to:

- i. the information submitted in support of the application (including the Ecological Survey Report and the Highways & Drainage Report (including Flood Risk Assessment) included at Appendices 1 and 2 respectively of this representation);
- ii. the Council's decision notice (included at Appendix 3 of this representation); and
- iii. the Appeal Decision (included at Appendix 4 of this representation)

It is evident from the information contained in these Appendices that the outline application for up to 37 dwellings on WEM035 was only dismissed on a point of principle, with no technical reasons (such as highway and traffic reasons) given for the refusal / dismissal of the application.

In summary, it is considered that the proposed development boundary for Wem should be amended to include housing site WEM035, in whole or part, to ensure that:

- the overall dwelling requirement of 600 dwellings for Wem will be met;
- housing opportunities are provided close to existing employment opportunities; and
- the potential impact of further housing development in Wem on the settlement's highway infrastructure is acceptably managed.

Conclusion

Policy S17.1 fails the 'positively prepared', 'justified' and 'effective' tests of soundness for the reasons set out above, including:

- the low level of growth for Wem;
- over-reliance on windfall development;
- the significant concerns over the deliverability and developability of existing and proposed housing allocations;
- the impact of the proposed distribution of housing growth in the town on existing infrastructure (including the rail crossing); and
- the availability of an appropriately located, unconstrained, available and deliverable alternative site (WEM035)

- **Q5 Modifications necessary to make the Plan sound**

To make the Plan 'sound' requires either an increase in the housing allocation requirement for Wem or the redistribution of housing to alternative allocations in the settlement to ensure that the housing needs of the settlement are addressed, and no unacceptable adverse impacts upon existing infrastructure arise, during the Plan period.

Policy S17.1 and the Wem Policies Map should therefore be amended to include part of our client's land (site reference WEM035), within the development boundary of the settlement and allocated for residential development for up to 40 dwellings, along the lines of the indicative plan included as Appendix 5 of this representation. The plan at Appendix 5 is illustrative only at this stage; however, the proposal is to deliver a good mix of 2, 3 and 4 bedroom properties with a large area of open space. There is the option to consider the use of this open space as allotments for the town together with a children's play area which would be for use by the community. In addition, we are willing to offer 15% of the site as designated affordable housing. This is more than the proposed policy requirement of 10%.

There are no constraints to the site, and no objections from the Highways Authority to the development. There would also be a footway linking the site with the town centre and it would be safe and easy to walk into town by foot or bike. The site does not compromise air quality in the town or around the school and being close to two employment sites it will reduce the need to travel by car. If residents of the site are travelling to work, then they are more than likely to access the A49 via Soulton road to the east rather than travelling through the town and adding to congestion.

Our client's are also extremely keen to ensure that the development promotes sustainable development and uses resources efficiently and are therefore committing to ensure that a minimum of 10% of the predicted energy needs of the development will be generated from on-site renewable and low carbon sources. There will also be a net gain in biodiversity on the site. It is widely accepted that domestic gardens are usually more ecologically diverse than agricultural land and all house designs would include bat and bird nesting boxes together with green well landscaped gardens and amenity areas.

In summary, the allocation of WEM035 would result in a greater level of certainty that the aims and objectives of the Plan, including the strategic growth objectives in the north-east of the County, will be realised over the Plan period. In addition, the allocation of this land, will deliver the important community benefits set out in this letter whilst also ensuring that unacceptable adverse impacts on existing infrastructure do not arise during the Plan period.

Q5. Please set out the modification(s) you consider necessary to make the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at Q4 above.

Please note that non-compliance with the duty to co-operate is incapable of modification at examination. You will need to say why each modification will make the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please see above.

(Please continue on a separate sheet if necessary)

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

Q6. If your representation is seeking a modification to the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan, do you consider it necessary to participate in examination hearing session(s)?

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

- No, I do not wish to participate in hearing session(s)
 Yes, I wish to participate in hearing session(s)

(Please tick one box)

Q7. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

In order to participate in, and therefore assist in ensuring, comprehensive consideration of the appropriateness of the planned level and distribution of residential growth in Wem during the Plan period.

(Please continue on a separate sheet if necessary)

Please note: The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Signature: S. Thomas

Date: 01/02/2021

Office Use Only

Part A Reference:

Part B Reference:

Representation Form

Please complete a separate **Part B Representation Form** (this part) for each representation that you would like to make. One **Part A Representation Form** must be enclosed with your **Part B Representation Form(s)**.

We have also published a separate **Guidance Note** to explain the terms used and to assist in making effective representations.

Part B: Representation

Name and Organisation:	Mr Stuart Thomas (BERRYS) on behalf of AFM Farming LLP
------------------------	--

Q1. To which document does this representation relate?

- Regulation 19: Pre-Submission Draft of the Shropshire Local Plan
- Sustainability Appraisal of the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan
- Habitats Regulations Assessment of the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan
- (Please tick one box)

Q2. To which part of the document does this representation relate?

Paragraph:	<input type="text"/>	Policy:	<input type="text" value="SP2"/>	Site:	<input type="text"/>	Policies Map:	<input type="text"/>
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Q3. Do you consider the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan is:

- | | | | | |
|--|------|-------------------------------------|-----|--------------------------|
| A. Legally compliant | Yes: | <input type="checkbox"/> | No: | <input type="checkbox"/> |
| B. Sound | Yes: | <input checked="" type="checkbox"/> | No: | <input type="checkbox"/> |
| C. Compliant with the Duty to Co-operate | Yes: | <input type="checkbox"/> | No: | <input type="checkbox"/> |

(Please tick as appropriate).

Q4. Please give details of why you consider the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

This policy's aspiration to accommodate, "investment and new development that contributes to meeting needs and making its settlements more sustainable" is supported.

The identification of Wem as a Key Centre accords with the Local Plan's vision in this regard, given Wem's strategic location on the A49 corridor with excellent connections to Shrewsbury and other English regions to the north.

(Please continue on a separate sheet if necessary)

Q5. Please set out the modification(s) you consider necessary to make the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at Q4 above.

Please note that non-compliance with the duty to co-operate is incapable of modification at examination. You will need to say why each modification will make the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

(Please continue on a separate sheet if necessary)

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

Q6. If your representation is seeking a modification to the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan, do you consider it necessary to participate in examination hearing session(s)?

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

- No, I do not wish to participate in hearing session(s)
- Yes, I wish to participate in hearing session(s)

(Please tick one box)

Q7. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

(Please continue on a separate sheet if necessary)

Please note: The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Signature:

S. Thomas

Date:

01/02/2021

Office Use Only

Part A Reference:

Part B Reference:



Highways & Drainage Report (including Flood Risk Assessment)

Planning Application for
Residential Development on
Land off Soulton Road,
Wem, Shropshire.

On behalf of
AFM Farming LLP

July 2015

Report prepared by
Andrew Gough I. Eng. F.I.H.I.E. M.I.H.T
Woodsyde Developments Ltd

Woodsyde Developments Limited
The Poppies, Lower Road, Harmer Hill,
Shropshire. SY4 3QX.
Tel: 01939 290483 Mob: 07527 352084
Email: andrew@awgough.co.uk

Contents:

	Page(s)
1.0 Introduction.	3 - 4
2.0 The Proposals	5 - 6
3.0 Site Location.	7 - 8
4.0 Highways and Access & Traffic Impact	9 – 14
4.1 Highways & Access	
4.2 Traffic Impact	
5.0 Drainage	15 - 16
6.0 Flood Risk Assessment	17 – 26
6.1 Site Details	
6.2 Scoping Report	
6.3 Flood Risk Assessment	
6.4 Recommended Flood Mitigation	
6.5 Drainage Strategy	
7.0 Conclusions	27 - 28
Appendices:	
Appendix 1:	
Drawing SA 20320 01 Rev A: Location Plan and Block Plan	
Appendix 2:	
FRA Pro-forma	

1.0. Introduction.

Woodsyde Developments Limited has been instructed by Berrys (Applicants Agent) to provide a highways and drainage statement in support of the outline planning application by AFM Farms LLP for a potential mixed development of 37 dwellings on land off Soulton Road, Wem, Shropshire

An illustrative plan presented by Berrys has been submitted with the application showing the layout for the 37 dwellings, with the access from Soulton Road.

As background I have worked as a Highway and Drainage Engineer in both the public and private sectors over the last 30 years, with eleven years at Shropshire Council in the Highways Development Control Team.

This report considers access to the proposed site and what effects the development may have on the local highway network.

Consideration is given to the likely traffic generated by the development in relation to Soulton Road and the wider highway network.

It is acknowledged that the development is considered to be of small - medium size and as such the increase in traffic numbers will likely have some effect on the highway network, but it is not considered to have any significant transport implications. Transport Assessments should be assessed and provided in accordance with the guidance of the NPPF (National Planning Policy Guidance). Additional guidance up until recently was given in the Dft 'Guidance on Transport Assessment' March 2007 but this has now been withdrawn. This document provided a suitable framework to base assessment on, which whilst the document is now effectively obsolete, still provides informative advice of how an assessment should be laid out. In this regard whilst this assessment is fully compliant with the guidance of NPPF, it uses the basic principles of the older guidance.

It is considered that a Transport Assessment should be provided where:

'Developments will have significant transport implications, Transport Assessments should be prepared and submitted alongside the relevant planning applications for development. The coverage and detail of the Transport Assessment should reflect the scale of development and the extent of the transport implications of the proposal. For small schemes, the Transport Assessment should simply outline the transport aspects of the application'.

The National Planning Policy Framework advises in paragraph 32 that - All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development

should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

It is essential when considering the requirements of an assessment for early discussions with the local highway authority in order to clarify whether proposals are likely to be acceptable in transport terms and to scope the requirements of any Transport Assessment.

Given the level of development for up to only 37 dwellings, it is considered that a simple Transport Statement will be appropriate in this instance. Moreover the report and assessment will indicate that the cumulative impacts of the development will not be severe.

The site will be served by a single vehicular access points onto Gorse Lane. Pedestrian facilities will abut the proposed estate road and will be brought to the junction of the proposed estate road with Gorse Lane.

This report supports the Design and Access Statement prepared in support of the outline planning application

This report also considers the drainage and flood risk issues surrounding the outline development proposals. Consideration is given to how the site will be drained in terms of surface water and foul water and a brief resume of the Flood Risk of the site.

The Drainage Report and Flood Risk Assessment report is prepared in accordance with the requirements of the Environment Agency and NPPF (previously PPS25), the guidelines indicating the necessity to produce such an assessment in areas which are in part or in whole potentially liable to the effects of a 1% (1 in 100 year) flood event.

This report supports the Design and Access Statement prepared in support of the outline planning application

2.0. The Proposals

An indicative site layout has been provided with the outline planning application to indicate how a scheme for 35 dwellings could be accommodated on the land. Whilst this plan indicates how the land may be developed it does not necessarily follow that this schematic plan will be the final layout. It is therefore confirmed that as the layout is not fixed and is schematic only. The drainage cannot be fixed and the proposals represent the requirements of the local authority in terms of drainage design and storage facilities.

The site is approximately 1.92 hectares (4.74 acres) on agricultural land. As shown on the indicative plan a large area to the south western portion of the site will be provided as Public Open Space. Additional planting will be provided where appropriate to site boundaries.

The site is bounded by residential development to the west and north, with Wem Industrial Centre to the south, with open fields to the east.

The site is fairly flat and has a gentle fall from a high point along the northern boundary adjacent to Soulton Road and falls towards the south and west.

The principal access to the site will be direct from B5065 Soulton Road. The site development will be typically served by a number of culs-de-sac from a main arterial route through the development.

The site has adequate frontage to B5065 Soulton Road where a safe and satisfactory junction can be provided and where visibility can be provided in accordance with the likely speed of traffic passing the site.

The principal access falls at the extent of the existing 30mph speed limits on the approach to Wem. It is suggested that the speed limit is extended slightly to include the whole of the junction bellmouth.

The proposed access and estate road will complement and take its cue from the existing built form locally and within the vicinity. The estate road layout will be such to ensure traffic speeds within the development are kept to an absolute minimum. Adequate turning facilities will be provided within the development. The design will give a high priority to pedestrians, through the control of traffic speed. Pedestrians will be provided with designated and separate spaces along the proposed culs-de-sac.

Satisfactory existing pedestrian facilities are provided along Soulton Road and the site will connect to these. There are good pedestrian facilities along the highway network in the vicinity of the site to amenities and alternative modes of transport can be found a short walk away towards the town centre.

The estate road will be laid out and constructed to be an adoptable estate road in accordance with Shropshire Council's current policy and standards laid out in the Design Guidance and Specification for Residential Estate Roads.

It is noted that local concern has been raised regarding residential development to the east of the railway line due to the railway crossing. It is acknowledged that some traffic movements will use the crossing from the site and that as a result the

proposals will seek to improve the lining, markings and signage in the immediate vicinity of the crossing. It is noted from inspection that the markings are well worn and that some signage could be improved.

It is noted that the domestic surface water is proposed to be disposed of by the use of soakaways if possible, however existing surface water drainage runs down Church Lane and to the south and this will be utilised as a suitable outfall. Appropriate additional SuDs techniques will also be provided to the development. Attenuation will be provided through the use of a pond and swale within the open space area.

Foul water drainage will discharge to the existing foul water sewer in Soulton Road.

The flood risk map produced by the Environment Agency (see 6.0 below) indicates the site to be located outside any zone and is not identified as a site at risk of flooding.

3.0. Site Location.

The proposed development site is located on the eastern side of the town centre, a large rural town, situated to the north of the county town of Shrewsbury, Shropshire.

Access to the site is to be gained directly off Soulton Road, as shown on the accompanying indicative drawings submitted to support the application. The site lies immediately west of the existing built form of Church Lane and south of Soulton Road.

The priority access to the site will be from Soulton Road as this is one of the main strategic roads to Wem from the east and the A49. Soulton Road provides the most direct route to the higher order roads and will provide a realistic route to direct commuter traffic out of the town onto the A49 Trunk Road, rather than using the level crossing.

The development is a parcel of land with a site area of 1.92 hectare (4.74 acres). A number of trees and hedges flank the western, southern and northern boundaries, with existing residential development to the west and north. Open countryside is to the east.

There are good pedestrian facilities along the highway network in the vicinity of the site to amenities and alternative modes of transport can be found a short walk away in the town centre.

Aerial view of site relation to Soulton Road.



Soulton Road has good width for all passing traffic and has good pedestrian facilities into Wem town centre. Additional pedestrian facilities pass through the Cricket Club which will be connected to through the proposed open space land. It is suggested that the existing 30mph speed limit is extended to cover the proposed access, however visibility is available at the current speed limit in force and will remain so following development.

Soulton Road is lit to what appears to be highway standards, but do not quite extend to the site accesses. In the interest of highway and pedestrian safety it is suggested that these be extended along Soulton Road to the site access.

The site is well located for pedestrians and cyclists to access the town centre, where a full range of shops, Doctors Surgery, Post Office, town hall, churches, both primary and secondary school, public houses etc. and access to alternative means of transport are available.

4.0. Highways and Access & Traffic Impact.

4.1. Highways and Access

The principal point of vehicular access to the proposed development site will be from Soulton Road. B5065 Soulton Road is one of the main roads into and through Wem. Soulton Road provides the most direct route from Wem to the higher order roads, being the A49 Trunk Road to the west. The A49 connects the north of the county to the south of the county. This road provides direct connection to the county town of Shrewsbury to the south, Whitchurch and Chester to the north and Telford and the Midlands to the east. Moreover this direct access to the higher order roads means that commuters and road users from the development would not need to travel through Wem, which would include the use of the level crossing to the railway line. It is noted that the roads through Wem, whilst generally of sufficient width have an element of on-street parking and has some substandard road junctions, such as New Street with Aston Street and High Street with Mill Street. These junctions have less than desirable geometric layouts; have tight junction radii and reduced visibility. Moreover the extension of High Street through Maunds Corner is restricted in width, alignment and forward visibility.

It is suggested that a large percentage of commuters from the site if travelling by car will leave Wem to the east. The site however is close to the town's railway station, where a frequent service is available to Shrewsbury to the south and Crewe to the north. In addition the town's bus service is located adjacent to the railway station. A good service is available to both the north and south. In this regard the station is within suitable and sustainable walking distance from the site. The site will be connected to the existing pedestrian facilities along Soulton Road. The walk distance from the site access on Soulton Road to the train station is approximately 600m – 700m and is considered to be fairly flat.

It is suggested that as a part of the proposed development the existing speed limit should be repositioned to the immediate east of the proposed access junction bellmouth along Soulton Road. This would further protect the existing road users who gain access from the private drives and culs-de-sac along the route into the town. In addition it would prevent any possible confusion to drivers passing along the site road frontage. Similarly it is suggested that the pedestrian facilities are extended to the site access, together with street lighting. From site inspection it is considered that traffic speeds along the site road frontage to Soulton Road would likely to be slightly in excess of the posted 30mph speed limit due to this being the entrance to the town and vehicles will either be slowing to enter the speed limit or accelerating as they leave the town and speed limit. The extension of the speed limit would therefore be beneficial to slowing vehicle speed further on entry to the build form.

Access to the site would be via a simple T Junction, using minimum 7.5m junction radii and providing junction visibility splays of maximum 2.4m x 263m to the east and 2.4m x 174m to the west.

The initial section of estate road serving the development will be typically 5.5m wide which will allow sufficient capacity to accommodate the predicted development traffic.

It is considered that the relevant junction visibility splays to the proposed junctions will be provided fully compliant with national guidance given in Design Manual for

Roads and Bridges and Manual for Streets 1 and 2 and also the guidance provided in the Shropshire Council's Design Guide

The estate road will be laid out such to discourage traffic speeds by changes in the horizontal alignment. The access and estate road will complement and takes its cue from the existing built form locally and within the vicinity. The estate road layout will be such to ensure traffic speeds within the development are kept to an absolute minimum. Adequate turning facilities will be provided within the development. The design will give a high priority to pedestrians, through the control of traffic speed. Pedestrians will be provided with designated and separate spaces along the proposed culs-de-sac and through the open space land.

The estate road will be laid out and constructed to be an adoptable estate road, in accordance with Shropshire Council's current policy and standards laid out in the Design Guidance and Specification for Residential Estate Roads and in accordance with Manual for Streets.

This proposed access points to the site will enable vehicles to simultaneously enter and exit the estate road without delay or need to stand/wait on the existing highway carriageway.

The internal arrangements shown on the indicative sketch proposal show suitable turning heads using 7.5m radii. Internal junctions and turning heads along secondary culs-de-sac through the development will be provided with 6.0m junction radii.

All road junctions within the development will be provided with visibility splays commensurate to the design speed allied to that particular road and the dwellings they serve. Visibility will be 2.4m x 33m to all internal road junctions in accordance with the guidelines laid out in Manual for Streets.

The design of the internal road pattern and footways will be fully compliant with the guidance provided in Manual for Streets and Shropshire Council's Design Guide for Residential Estate Roads. The hierarchal approach roads to the site are considered to be suitable for this modest development.

All footways to the local facilities and the town centre are secure and have visible crossing points. The existing and proposed pedestrian facilities are considered adequate and in accordance with the requirements of DfT's Inclusive Mobility and IHT document 'Guidance for Providing for Journeys on Foot'. The footways have good sightlines and visibility.

Given the location of the site coupled with the provision of suitable pedestrian facilities, other suitable modes of transport and all local facilities being within suitable walking distance would suggest that the site is sustainable

The proposed arrangements including the proposed access road, internal junction visibility splays, access carriageway and pedestrian facilities will provide a safe and secure means of access with suitable capacity for all traffic movements and pedestrian movements to and from the site.

Drawing SA20230 01 – Location Plan and Block Plan (Appendix 1) shows detailed proposals of the access arrangements and general site layout.

In terms of sustainability it is considered that the site is well located to all of the town facilities, including shops, supermarket, post office, town hall, primary and secondary schools, public houses, churches and alternative means of sustainable transport.

The towns train station and bus stop is within a relatively flat approximate 600m – 700m walk from the site.

The proximity of these alternative modes of transport and the town facilities should mean that there will be less reliance on the motor car to gain access to the town and larger towns to the north and south.

The site is well positioned in the road hierarchy and whilst no dedicated cycle lanes are provided locally the roads are considered to be of adequate width to allow cyclists to feel safe. The approaches along Soulton Road to the access is considered to have satisfactory forward visibility.

From personal knowledge I am unaware of any Personal-Injury Accidents (PIA's) within the vicinity of the site or on the local highway network in the recent past.

Adequate parking will be provided throughout the site to ensure off-highway facilities are provided to all dwellings and to ensure the estate roads are kept clear.

4.2. Traffic Impact

The site is located on the eastern edge of the town, with a principal access direct onto Soulton Road, which is one of the main arterial roads into Wem and also provides the most direct link to the higher order roads to the east, being the A49.

The proposals are for 37 dwellings, but a proportion of these will be affordable. The capacity assessment figures below are based on similar type development in a market town.

In terms of existing traffic generation it is expected that Soulton Road currently carries a reasonable traffic load as would be expected, as it is one of the main routes into and out of Wem. It is likely that the existing traffic is at its greatest in the am peak hour 08.00 – 09.00 and between 17.00 – 18.00 in the pm peak. It is also reasonable to assume that there will be a high number of pedestrian movements during the peak hours associated with school and work from the culs-de-sac and dwellings which gain access from Soulton Road.

From inspection it would appear evident that all dwellings along the road have adequate off-highway parking and it therefore fairly free in terms of its traffic flows.

It is assumed that there will be likely in the region of 2500 – 3000 average annual daily traffic movements along B5065 Soulton Road. These figures are estimates only, but accord with the most recent automated traffic counter results.

Clearly the higher traffic movements will be in the peak hour, but there be other traffic movements spread throughout the day.

In terms of road assignment for the development all vehicular access will be to the B5065 Soulton Road.

At present the site is laid to grass and therefore little traffic is associated with it, save for the agricultural machinery used for harvesting, planting and treating crops.

In terms of proposed trip rates as mentioned above and based on TRICS data used on a similar development in Ellesmere, North Shropshire, it is considered that there will be in the region of 21 traffic movements in the am peak hour, with in the region of 23 traffic movements in the pm peak hour, based on 37 units. Table 5.1 below indicates a summary of the assumptions and data used of all private housing

Assumption for private housing:

Trips for Dwellings	Arrivals	Departures	Total
AM peak hour	6	15	21
PM peak hour	14	9	23

Assumptions for Actual trip rates:

Trips rates (Vehicles)	Arrivals	Departures	Total
AM peak hour	0.156	0.409	0.562
PM peak hour	0.388	0.241	0.629

It is considered that the data and figures show worst case traffic movements for the proposed development.

It is considered that a portion of the dwellings will be affordable and therefore rented. In this regard the figures in Table 5.2 below shows the comparison trip rates for this type of housing based on 10% of the total number of proposed dwellings.

Assumption for Rented Housing:

Actual trip rates:

Trips rates (Vehicles)	Arrivals	Departures	Total
AM peak hour	0.172	0.339	0.511
PM peak hour	0.339	0.263	0.602

It can be seen that there will likely be a slight reduction in trip rates from an affordable housing element within the development.

Given the location and proximity of the proposed site to the town centre, primary and secondary school, train station and bus station, it is reasonable to expect a good percentage of residents will use sustainable transport or walk.

Based on the analysis above it is considered that there will be a small overall increase in traffic movements over and above the existing movements on Soulton Road. However from inspection the local road network has good road widths and has good forward visibility along their length in accordance with Manual for Streets.

Drawing conclusions from this assessment, it is clear that the volume of traffic generated as a result of the developments will provide only a small increase in traffic generation, which is not considered to be significantly material to cause demonstrable congestion along Soulton Road or the wider highway network.

It is acknowledged that some traffic movements will inevitably use the railway crossing to gain access to the town centre. However it is considered that these traffic figures will be relatively small in comparison to the existing flows on the highway. Nonetheless it is understood that concerns have been previously raised regarding the nature of the crossing and the traffic movement associated with the crossing. In this regard it is suggested that some funding allied to the development could be set aside to improve the existing partly worn road markings. It is considered that the potential to increase the length of the existing yellow boxes would be useful in securing satisfactory crossing points for vehicles wanting to turn into Aston Road from the town centre and similarly turning right into Station Road when travelling into the town. Moreover additional informative signage could supplement the road markings to give better advice of the use of the road space and make drivers aware of potential right turning vehicles. Advance signage could also be provided on the approaches to the town providing informative advice how the crossing operates.

It is noted that the crossing has change over the years, from gates opened manually by rail staff manning the signal box to the current electrically operated gates, which would appear to work on sensors along the track when a train crosses them on the approaches to the station. Unfortunately whilst this is the modern arrangement reduces effective manpower, it nonetheless appears to have increased wait times at the road crossing, by the barriers lowering earlier. I am advised by the Local Officer at Network Rail that this crossing has one of the most up to date arrangements for the barriers operation. It is appreciated that safety is a significant factor and this must be the priority, but from personal use the delay times do appear to have extended over the years with the onset of the change to the barrier type and loss of the signal box. These delays inevitably mean that queue lengths become longer, but from local knowledge these do not seem to be unacceptable. Again the Network Rail Officer confirmed that wait times are not unnecessarily extended, but ensure that adequate safety is afforded to ensure trains are clear of the crossing. Having arrived at the station or leaving the station before the barriers are lifted.

In respect of providing additional and improved features at the crossing, it is considered that these should be the subject of a Grampian Condition, whereby the Council's Traffic Engineer and Network Rail can examine the existing arrangements and recommend necessary and appropriate improvements.

Overall it is considered that whilst some minor improvements can be made to the railway crossing and that a financial contribution levied by the Highway Authority, the immediate highway network and access roads to the site from Soulton Road and has adequate capacity to serve the level of development proposed and likely traffic that may be generated.

Highway Summary & Conclusion.

It has been demonstrated that the proposed residential development will continue to sustain the town and the town facilities and the development of the site will ensure sustained economic growth in the area.

This assessment has demonstrated that the proposals will not have a significant material effect on the immediate highway network. It is accepted that there will likely be a potential for a very small increase traffic, which could potentially result in an additional car in the existing queue lengths at the level crossing throughout the day and particularly the peak hours, however these are not considered to be significant and will not affect the overall safety of the highway network.

It is considered that the proposals for a residential development will see a nominal increase in traffic movements across the day, with likely a slightly higher proportion in the peak hours, however this will be off-set by the provision of a suitable principal direct access from the site to Soulton Road, where access can be gained to the higher order roads to the east.

It is considered that the highway network has adequate capacity to accommodate this development and that an appropriate Section 106 Agreement can be formed to provide funds on a roof top basis for the Highway Authority to effectively manage potential improvements at the railway crossing.

The site is located where residents can utilise alternative sustainable transport. Good pedestrian links will be and are available to the site from the Town Centre where the respective train and bus stations can be found.

Based on the analysis provided in this Transport Assessment, there does not appear to be any significant transport related reason why this site should not be granted Planning Permission.

5.0. Drainage.

Surface Water Drainage

The site is fairly flat, with a gradual fall from north to south.

This is a Greenfield site and from inspection has no identifiable surface water drainage, save that a surface water drainage likely discharges to ground and the sub-soils/topsoil's where possible, with any exceedence flows running off the land in a southerly direction.

It is proposed to maintain the existing surface water run-off from the site in accordance with the Technical Guidance to the National Planning Policy Framework (NPPF) and good practices. The surface water from the proposed development buildings and private areas will be collected in piped and sealed systems to soakaways if suitable porosity is available, located in the gardens for the dwellings. An attenuation pond located in the public open space will be provided if insufficient porosity is available. From a knowledge of the locality is understood that the site is unlikely to have adequate porosity for the use of soakaways. The surface water drainage will be designed to current standards for a 1 in 100 year event plus 30% climate change for a range of storms, together an additional allowance for urban creep. Exceedence flows will be considered and any additional necessary cut-off drains will be provided. If the use of soakaways is not possible then a suitably designed piped system and attenuation pond will be provided.

It is proposed where possible to use SuD's techniques if appropriate to drain the site, where-by the existing Greenfield run-off is not exceeded and in all likelihood will be reduced. These systems are diverse, but generally aim to provide drainage systems that may facilitate flood and/or pollution control, related to run-off. Such systems are generally 'soft engineering' and as a result can be financially, as well as environmentally, attractive engineering solutions.

It is considered likely that the substratum of the site unlikely has porosity whereby soakaways will be viable. Therefore other SUD's techniques such as rainwater harvesting as a means of disposal for the surface water drainage and rainwater butts will be used where appropriate. All surface water will be suitably attenuated and will discharge at Greenfield rates of only 5 litres per second per hectare.

As the surface water drainage will be restricted to effective Greenfield run-off there will be no adverse effects on the receiving downstream culvert or outfall thereafter.

The adoption of the highway drains will need to be the subject of a Section 38 Agreement of the Highways Act 1980 with the relevant Highway Authority at the appropriate time.

Foul Drainage

The foul drainage from the proposed development will be collected via a new piped system and will discharge to the existing foul water sewer located in Soulton Road.

The existing public sewer is believed to be located in Soulton Road and drains to the foul pumping station located to the north of the B5065, opposite the junction of Church Lane. A new sewer will be constructed within the estate road carriageway to

drain the properties and development. The provision of this sewer to serve the development will be the subject of an appropriate adoption agreement with the Local Water Authority.

The adoption of the site sewers will be the subject of a Section 104 Agreement of the Water Industry Act 1991 with the relevant Water Authority.

Where appropriate and if required rainwater harvesting will be utilised within the development for the purpose of water used to flush toilets.

6.0. Flood Risk Assessment.

6.0 Introduction

Project Brief.

This FRA is prepared in full accordance with the National Planning Policy Framework (NPPF). The FRA is required to identify the 1% (1 in 100 year) and 1%+ allowance for climate change flood extents and levels for the site and ensure that all aspects of development are clear of the 1%+ allowance for climate change floodplain.

The Environment Agency Flood Maps indicate that the site wholly located in Flood Zone 1 and is not liable to any flooding. From Google Maps and Promaps the northern portion of the site sits at an approximate level of 80.0m AOD, whereas the lower portion to the southern boundary has a typical level of 78.0m AOD. The proposed dwellings will be protected from any potential pluvial, fluvial or groundwater flooding risk by raising and setting the finished floor levels typically 150mm above the surrounding ground. It is proposed to capture any possible pluvial overland flows at source and direct them to the proposed drainage system.

Assessment Procedure

This report has been prepared in accordance with the requirements of NPPF.

An assessment of the flood risk to the proposed development has been considered on the basis of the best information available at the date of this report. The assessment herein is deemed appropriate to the requirements of the Environment Agency, the scale and nature of the development, and the available data. The key elements of this assessment are as follows:

- Desk study scoping exercise;
- Site visit;
- Consultation with relevant authorities;
- Review of site topography and development proposals;
- Identification of data corresponding to appropriate design flood events;
- Consideration of climate change;
- Consideration of flood risks to and from the development;
- Calculation of the impact of the development on surface water run-off, and;
- Recommended attenuation measures.

National Planning Policy Framework

- NPPF was published by Communities and Local Government, March 2012 and supersedes the Planning Policy Guidance Note 25. However the principles on which the assessment is based under PPS25 are still valid.
- NPPF has been developed to provide additional guidance to local planning authorities to ensure the effective implementation of the planning policy set out in the NPPF on development in areas at risk of flooding.
- The guidance retains the key elements of Planning Policy Statement 25.
- The EA is a statutory consultee for all planning applications and will give

comment and recommendations to the planning authority for any proposed developments affecting a watercourse.

- NPPF and PPS25 states that a Strategic Flood Risk Assessment (SFRA) should be carried out by the local planning authority to inform the preparation of Local Development Documents (LDDs), having regard to catchment wide flooding issues which affect the area. The SFRA will provide the information needed to apply the sequential approach.

Requirements of NPPF and PPS 25

For a FRA proportionate to the risk and appropriate to the scale, nature and location of the development the following will need to be considered;

- the risk of flooding arising from the development in addition to the risk of flooding to the development; take the impacts of climate change into account;
- the potential adverse and beneficial effects of flood risk management infrastructure including raised defences, flow channels, flood storage areas and other artificial features together with the consequences of their failure;
- the vulnerability of those that could occupy and use the development, taking account of the Sequential and Exception Tests and the vulnerability classification, including arrangements for safe access;
- quantify the different types of flooding (whether from natural and human sources and including joint and cumulative effects) and identify flood risk reduction measures, so that assessments are fit for the purpose of the decisions being made;
- the effects of a range of flooding events including extreme events on people, property, the natural and historic environment and river and coastal processes; include the assessment of the remaining (known as 'residual') risk after risk reduction measures have been taken into account and demonstrate that this is acceptable for the particular development or land use;
- how the ability of water to soak into the ground may change with development, along with how the proposed layout of the development may affect drainage systems;
- and be supported by appropriate data and information, including historical information on previous events.

6.1 Site Details

Site Overview

The site is located adjacent to Soulton Road on the eastern fringe of Wem, Shropshire (NGR 352474, 329289). Access to the site will be from a single access along the site road frontage to Soulton Road.

Figure 6.1 below shows the location of the application site.



OS NGR	SJ 352474, 329289
Local Planning Authority	Shropshire Council
Environment Agency Office	Shropshire Region
Water Utility Company	Severn Trent Water

Site Description

The application site lies on the eastern edge of the market town of Wem. Presently the site is Greenfield used as a mix of agricultural uses. The development area of the site is roughly rectangular in shape, with an area of approximately 1.92 hectares (4.74 acres) in size. The site is situated at an approximate level of 79.00m AOD, with a high of approximately 80m along the northern boundary and low of approximately 78.0m to the southern boundary of the site. The site has a gradual fall from north to the south.

Surrounding Area

To the western boundary of the site lie areas of residential properties beyond Church Lane. To the north lie residential properties and the B5065 Soulton Road. To the south lies Wem Engineering Works off Church Lane and open fields to the east.

The River Roden is approximately 500 metres from the south of the site boundary.

Development Proposals

The proposed development will be a mixed residential development of 37 homes. A schematic and indicative layout has been provided to support the application, but it does not necessarily mean this will be the final design. The development proposals

will result not result in an increase in surface water with the design of the surface water drainage system limited to existing Greenfield run-off rates.

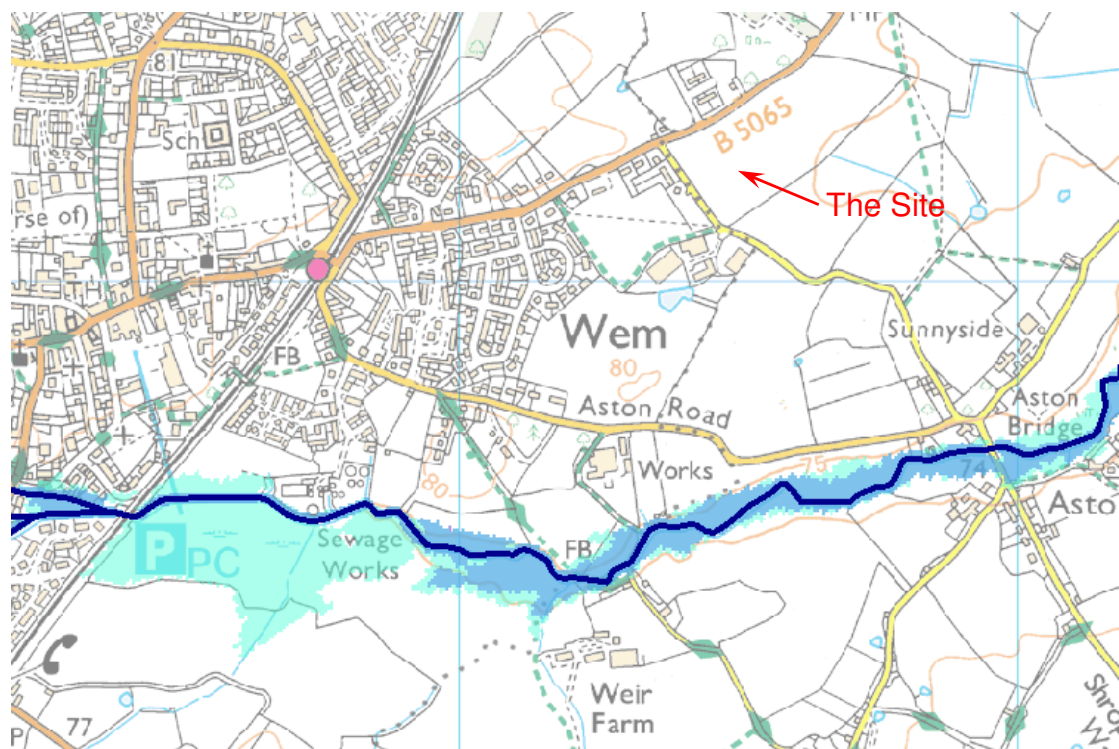
A Schematic Layout Plan is included in Appendix 1.



6.2 Scoping Report

Indicative Floodplain Map

The Environment Agency is responsible for the provision of information pertaining to flood risk from tidal and main watercourses throughout England and Wales. The EA provides online information service through its Flood Map data. This data is not intended to provide detailed flood information for individual properties, but does provide a useful resource at scoping stage. An extract from the Flood Map is given in Figure 6.2 below

Figure 6.2: Extract from EA Flood Map – Planning (downloaded on 17/07/14)



-  Flood Zone 3
-  Flood Zone 2

Historical Flooding

Discussion with Shropshire Council, the land owners and local residents who have worked and lived in the area for many years have confirmed that there have been no reported incidents of flooding at the application site.

Strategic Flood Risk Assessment

The Shropshire Council Local Plan advises that development should be well located and preferably on previously developed land. Here it is expected that preference should be given to locating development in Flood Zone 1. However consideration must be given to the risk of alternative sources of flooding (e.g. surface water, sewage, and/or groundwater). Sustainable urban drainage techniques must be employed to ensure no worsening of existing flooding problems elsewhere within the area.

NPPF– The Sequential Test

The sequential test should demonstrate that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed.

NPPF suggests that where an SFRA is not available, the sequential test will be based on the EA Flood Zones. The EA maps confirm that the site is within Flood Zone 1 ‘low probability’. The actual development and built form of the site will fall within the Flood Risk Vulnerability classification “high vulnerable” (this includes buildings used for: dwelling houses; student halls of residence; drinking establishments; nightclubs; and hostels). Therefore based on the EA flood zone classification of the development, Table 3 in NPPF (see Table 3.0 below), indicates that development is appropriate.

Table 3.0: NPPF: Flood Risk Vulnerability and Flood Zone ‘Compatibility’

Flood Risk Vulnerability Classification		Essential Infrastructure	Water Compatible	Highly Vulnerable	More Vulnerable	Less Vulnerable
Flood Zone	Zone 1	✓	✓	✓	✓	✓
	Zone 2	✓	✓	Exception Test required	✓	✓
	Zone 3a	Exception Test required	✓	X	Exception Test required	✓
	Zone 3b ‘Functional Floodplain’	Exception Test required	✓	X	X	X

Key:

✓ Development is appropriate. x Development should not be permitted

Mechanisms of Flooding

To understand the risk of flooding to a site, it is imperative that potential sources of flooding be clearly defined. The likelihood and severity of flooding depends on the characteristics of the flood sources and the degree to which the site is currently, or can potentially, be protected against flooding from these sources. Table 6.3 reviews the potential risk of flooding at the proposed site from different sources.

Table 6.3 Potential Risk of Flooding to the Proposed Development

Source of Flooding	Potential			Comments
	High	Med	Low	
Fluvial (Rivers)			X	The site is located within Flood Zone 1 (Low Probability)
Tidal/Coastal			X	The site is located far inland and there is no risk of tidal flooding
Pluvial (drainage system)		X		Possibility of Pluvial flooding in an intense rainfall event due to insufficient sewer capacity
Surface Run-off		X		Increased areas of impermeable material
Ponding		X		Proposed drainage must prevent Ponding
Groundwater			X	No apparent Groundwater flood risk. No basements proposed at this site.

6.3 Flood Risk Assessment

Introduction

Following the scoping exercise, the primary flood risks are identified to be from Fluvial, Pluvial, Surface Run-off, and Ponding. These sources of flooding have been investigated in greater detail, to ascertain whether the risks are acceptable to the nature of the proposed development. Opportunities to mitigate these risks are discussed in Section 6.4 of this report.

Fluvial (Rivers)

The site is located within Flood Zone 1 (low probability), which means that the likelihood of flooding from fluvial or tidal sources in Flood Zone 1 is less than a 1 in 1000 year probability of flooding or <0.1% and potentially greater than 1 in 100 year probability of flooding.

The River Roden is located minimum 500m from the site. Due to its location at some distance away from the site it is deemed that it poses no flood risk to the development. It is suggested that there will be no risk of flooding from this source.

Pluvial (Drainage Systems)

There is no reported evidence of pluvial flooding at the application site. The proposed drainage system for the site will utilise Sustainable Drainage Systems (SUDS) where possible. It is noted that the development to the north and west have suitable means

of surface water drainage, such that there will be little likelihood of surface water run-off from the adjacent lands.

Further details of the Drainage Strategy for the site are presented in Section 6.5 of this report.

Surface Run-off

Currently the surface water from the site would appear to discharge direct to ground. Surface water drainage for the proposed development will provide adequate attenuation within a pond and drainage system for the 1 in 100 year storm + 30% for climate change. An allowance for urban creep will also be allowed for.

Further details of the Drainage Strategy for this site are presented in Section 6.4 of this report. Appropriate cut-off drains will be provided to boundaries where appropriate to capture any flows from adjacent land. However it is noted that the existing development to the north and west appears to have been provided with suitable drainage arrangements, meaning there will be little likelihood of surface water run-off from adjacent land.

Ponding

Ponding may occur if drainage is not adequately designed after periods of heavy rainfall. The new development will have to implement an adequate drainage system as discussed in Section 6.5 of this report.

Groundwater

There is no apparent flooding threat posed from the ground water level at this site. There are currently no basements to be constructed in the development and therefore no seepage into these structures will occur. Suitable cut-off drainage and French drainage will be incorporated to ensure there are no issues from this source.

Residual Risk

It is considered that there will be no residual risk as a result of the proposed development. A FRA Pro-Forma is included in Appendix 2 of this report.

6.4 Recommended Flood Mitigation

Introduction

This section discusses mitigation options that should be considered in order to reduce the severity of the flood risk and to minimise the potential hazards associated with any residual flood risk.

Design Levels

The proposed built form of the development lies outside the fluvial floodplain. However as a matter of course; it is recommended that all floor levels are at least 150mm above existing ground levels.

Site Topography and Flood Routing

Where achievable there should be a differential level of at least 150mm between the threshold and surrounding ground levels. Where possible, levels should also fall away from buildings, and areas where water could dam up against structures should be avoided, even if drainage is provided. The site has a gradual fall from west to east. The high point of the site is situated along the northerly boundary at an approximate level of 80m, which then falls in a southerly direction to a level of approximately 78.0m. It is noted that the Flood Map identifies the whole to be located in Flood Zone 1. The River Roden is located approximately 500m to the south, which will have no influence on the site.

Sustainable Drainage Systems

It is now commonly a planning requirement to consider utilising sustainable drainage systems (SUDS), if it is appropriate to the specific site conditions. These systems are diverse, but generally aim to provide drainage systems that may facilitate flood and/or pollution control, related to run-off. Such systems are generally 'soft engineering' and as a result can be financially, as well as environmentally, attractive engineering solutions.

From knowledge of the area and working on other schemes in and around Wem the ground is understood to have sufficient porosity for the use of soakaways for the disposal of surface water. The use of water butts and rainwater harvesting will be used where appropriate.

Flood Resistance & Resilience

A basic level of flood resistance and resilience can be achieved by following good building practice and complying with the requirements of the Building regulations 2000 published by the Office of the Deputy Prime Minister (ODPM). The incorporation of flood proofing measures should be considered as part of the design and construction of the development. These could include removable flood barriers across doorways and airbricks or raising the electrical sockets/services if appropriate.

6.5 Drainage Strategy

Introduction

In order to demonstrate that all forms of flooding have been considered as required by NPPF a drainage strategy is being developed. The aim of including this strategy as part of the flood risk assessment is so that it can easily be seen that the proposed development will not adversely affect the surface water regime in the area and that overall the current situation will be improved. An indicative site layout can be found in Appendix 1.

Existing Surface Water Drainage

The site currently has no definable drainage, however, there is a piped drainage system in Souldon Road/Church Lane and a ditchcourse which abuts Church Lane beyond the Engineering Works. It is understood that these systems drain to the River Roden to the south. Surface water from the proposed dwelling will discharge to the soakaways porosity permitting or to an attenuation pond and system, with a discharge to the existing sewer at Greenfield rates only.

Existing Foul Water Drainage

At present I am unaware of any foul water drainage within the site. It is understood that an existing foul water drainage system is available in Soulton Road, which discharges to a pumping station on the northern side of Soulton Road opposite the junction of Church Lane. It is believed that the existing system is maintained by Severn Trent Water Ltd.

Proposed Surface Water Drainage

It is proposed to use an attenuation system with soakaways where possible within the site to drain all surface water from the buildings. If soakaways are not permitted the surface drainage will be provided for within an attenuation pond located within the proposed public open space. Permeable surfacing will be provided to the access roads and footpaths where appropriate and will drain to subsurface drains before being directed to the attenuation system.

SuDS techniques will be utilised within the development with the possible use of water butts and rainwater harvesting where appropriate.

A series of cut-off and land drainage will be provided where appropriate to collect any potential surface water run-off from adjacent lands.

The proposed surface water drainage will be designed for a worst storm event 1 in 100 year event, plus 30% climate change and an allowance for urban creep.

Proposed Foul Water Drainage

It is proposed that the new development will connect into the existing foul sewer network in Soulton Road to the west of the site, subject to confirmation from Severn Trent Water Ltd.

All sewers will be designed in accordance with Sewers for Adoption 7th Edition.

Maintenance/Adoption.

It is proposed that the new development will connect into the existing foul water drainage system in Soulton Road via a new connection. Surface water will discharge to ground or via an attenuation system/pond and discharge to the existing culverted watercourse at a controlled rate. All sewers will be designed in accordance with Sewers for Adoption 7th Edition.

Sustainable Drainage Techniques

It is now commonly a planning requirement to consider utilising sustainable drainage systems (SUDS), if it is appropriate to the specific site conditions. These systems are diverse, but generally aim to provide drainage systems that may facilitate flood and/or pollution control, related to run-off. Such systems are generally 'soft engineering' and as a result can be financially, as well as environmentally, attractive engineering solutions.

Where possible the use of water butts and some rainwater harvesting may be used, otherwise all surface water will drain to soakaways or a new attenuation system/pond.

Conclusions & Recommendations

The proposed development on land off Soulton Road, Wem, Shropshire has been assessed with regards to flood risk. The site falls wholly within Flood Zone 1 and subject to satisfactory surface water drainage to the site proposals there will be no flood risk to the site or any other properties. Appropriate attenuation will be provided within the development, with any discharge reduced to Greenfield run-off rates.

Review of NPPF Objectives

The proposed development will not be affected by current or future flooding from any source. Appropriate additional cut-off and land drains will be provided to receive any potential overland flooding.

The site falls from north to south, with levels of approximately 80m to the northern boundary and level of 78.0m to the southern boundary.

The development will not increase flood risk elsewhere, with the restriction of surface water run-off at Greenfield rates.

The measures proposed to deal with the effects and risks are appropriate, for example using soakaways, an attenuation systems, ponds, permeable paving and cut-off/land drainage where possible.

It is considered that the exception test has been met as tall of the falls within Flood Zone 1.

The site will benefit from soakaways or an attenuation system for the surface water drainage with controlled discharge to adjacent outfalls.

Other origins of flooding have also been assessed and it has been found that there will be no increase in risk of flooding from land, groundwater or sewers as a result of this development.

There are no anticipated negative social, economic or environmental impacts which would result from the development of the site provided mitigation measures outlined in Section 6.4 are adhered to.

Review of Drainage Strategy

The proposed development will ensure that the 1 in 100 year + 30% climate change flows will be attenuated on site.

Urban creep will be assessed and calculations will include for this.

The surface water drainage will drain to soakaways or an attenuation pond system within the site, with a controlled outfall.

Permeable paving, rainwater butts, rainwater harvesting, cut-off drains and land drainage will be provided where necessary to ensure Sustainable Drainage Techniques.

The site is wholly located within Flood Zone 1 and as such there is no risk of flooding to the site or elsewhere as a result of the proposals.

New foul water sewers will be constructed in line with Sewers for Adoption 7th Edition and an application for a Section 106 Agreement will be made where applicable.

Sustainable Drainage Systems will be utilised as where ground conditions allow and this will be incorporated at the detailed design stage.

6.0 Conclusion.

It is considered that the site is well related to the settlement and has good sustainable attributes. The site is only a short walk and cycling distance of all the facilities the town has to offer and public transport links.

There appears to be no specific infrastructure difficulties in developing the site in terms of access and will comply with all current national and local standards and guidance in force.

It has been indicated that the development of this site will have no demonstrable effect on the safe movement and free flow of traffic on Church Lane, Soulton Road, or the wider highway network. The site proposals will not be detrimental to the free and safe environment to any mobility impaired or visually impaired pedestrians including wheelchairs users.

Suitable, safe and satisfactory access is proposed for the development off Soulton Road, with junction visibility splays provided commensurate with the speed of traffic along the site road frontage. It is suggested that the existing 30mph speed limit is extended to the immediate east of the proposed site access on Soulton Road. As far as I am aware there is no history of traffic incidents in the vicinity of the site on either Soulton Road or Church Lane.

The proposed approach and access roads are considered to be of sufficient width to cater for the development land and satisfactory arrangements have been shown to allow for the safe movement of pedestrians, including links to the existing facilities located on Soulton Road.

It has been acknowledged that there are some issues at the railway crossing and a contribution to highway improvements will be provided to seek to address some of these, by improving signage and replacing worn or partially worn road markings. It is however considered that the proposals will not unduly affect the existing road network or the functions of the level crossing to the Railway Station.

The site has been assessed with regards to flood risk and it is considered the development of this land will have no risk to flooding. The development will pose no flood risk to any area outside of the development site.

The measures proposed to deal with the surface water and foul water drainage are appropriate for the site and ensure adequate and satisfactory means of disposal are available, with no detriment to the development, any properties or areas outside the development.

The site can be adequately drained with the proposals including the use of soakaways for domestic drainage and/or an attenuation pond system with restricted flow. Allowances will be made for climate change and urban creep. The development will have no detrimental effect on the any adjacent properties or development in the vicinity or downstream of the site.

Surface water discharge from the site will be controlled and restricted in order that there will be no flood risk associated with the site and the proposals will not adversely affect any parts off site.

It has been indicated that the proposals mitigate any likely flood risk posed by the site and no demonstrable adverse effects will occur elsewhere from the proposals. The provision of a managed controlled system, the site nor the area outside of the site will be at potential risk from a future 1% flood event.

A suitable means of foul water drainage disposal from the proposed development is available to the existing foul water sewer located adjacent to the eastern boundary.

Appendices:

Appendix 1:

Drawing SA 20320 01 Rev A: Location Plan and Block Plan

Appendix 2:

FRA Pro-forma

Appendix 2: FRA Pro-forma

Flood risk assessment for new development

This pro-forma should be completed and submitted with the planning application for developments for which a Flood Risk Assessment (FRA) is required.

1. Development description and location
1a. What type of development is proposed and where will it be located? The application site is situated off Soulton Road, on the eastern fringe of the town of Wem, Shropshire. (NGR 352474, 329289). A development of 37 dwellings is proposed on the site which is approximately 1.92ha in size.
1b. What is its vulnerability classification? • More Vulnerable
1c. Is the proposed development consistent with the Local Development Documents? • Yes
1d. Please provide evidence that the Sequential Test or Exception Test has been applied in the selection of this site for this development type? See Flood Risk Assessment above: Development on Land off Soulton Road, Wem, Shropshire. Client: AFM Farms LLP
2. Definition of the flood hazard
2a. What sources of flooding could affect the site? (see Annex C PPS25). • Flooding from Sewers • Flooding from Land • Flooding from watercourses
2b. For each identified source, describe how flooding would occur, with reference to any historic records wherever these are available. • Flooding from sewers could occur if the existing network becomes overloaded causing the system to back-up. • Flooding from the land could occur if adequate drainage is not provided and run-off limited from the site. In addition the drainage must be as such that no ponding occurs as a result of the proposed development. • Flooding from watercourse could occur if watercourses become blocked and overflow from the watercourse.
2c. What are the existing surface water drainage arrangements for the site? Surface water currently discharges to ground
3. Probability
3a. Which flood zone is the site within? • Flood Zone 1 (Low Probability)

<p>3b. If there is a Strategic Flood Risk Assessment covering this site, what does it show?</p> <ul style="list-style-type: none"> • Unknown • However Planning Policy suggests that development should be on previously developed land and/or located in Flood Zone 1 'low probability'.
<p>3c. What is the probability of the site flooding taking account of the contents of the SFRA and of any further site-specific assessment?</p> <ul style="list-style-type: none"> • Low Probability
<p>3d. What are the existing rates and volumes of run-off generated by the site?</p> <ul style="list-style-type: none"> • Approximately 9.6l/s based on 50mm hr and site area of 19200sq. m @ run-off from Greenfield

4. Climate change

<p>4a. How is flood risk at the site likely to be affected by climate change?</p> <ul style="list-style-type: none"> • The proposed drainage solutions will cater for climate change, and provide adequate on site attenuation.

5. Detailed development proposals

<p>5a. Please provide details of the development layout, referring to the relevant drawings.</p> <ul style="list-style-type: none"> • See Appendix 1 – Indicative Block Plan
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<p>5b. Where appropriate, demonstrate how land-uses most sensitive to flood damage have been placed in areas within the site that are at least risk of flooding.</p> <ul style="list-style-type: none"> • See Section 6.4 - Flood Risk Assessment

6. Flood risk management measures

<p>6a. How will the site be protected from flooding, including the potential impacts of climate change, over the development's lifetime?</p> <ul style="list-style-type: none"> • Use of Sustainable Drainage Systems where appropriate. Use of land drains and cut-off drains and surface water attenuation
--

7. Off site impacts

<p>7a. How will you ensure that your proposed development and the measures to protect your site from flooding will not increase flood risk elsewhere?</p> <ul style="list-style-type: none"> • Use of Sustainable Drainage Systems where appropriate. • Adequate on site attenuation and relevant provisions for climate change.

7b. How will you prevent run-off from the completed development causing an impact elsewhere?

- Use of Sustainable Drainage Systems where appropriate.
- Adequate on site attenuation and relevant provisions for climate change.
- Addition land drainage and cut-off drains

8. Residual risks

8a. What flood-related risks will remain after you have implemented the measures to protect the site from flooding?

- None

8b. How, and by whom, will these risks be managed over the lifetime of the development?

- N/A

DECISION NOTICE



DETERMINATION OF APPLICATION FOR OUTLINE PLANNING PERMISSION

Town and Country Planning Act 1990

Town and Country Planning (Development Management Procedure) (England) Order 2015

Location:	Land At Junction With Church Lane, Soultion Road, Soultion, Wem
Proposed Development:	Outline application for residential development of up to 37 dwellings to include means of access
Application No.	15/03710/OUT
Date Received:	27th August 2015
Applicant:	AFM Farming LLP

Shropshire Council hereby **REFUSE OUTLINE PLANNING PERMISSION** for the reasons outlined below.

REASONS FOR REFUSAL

1. The proposed development is considered to represent unsustainable development with consideration to the overall aims and objectives of the National Planning Policy Framework in relationship to the three strands of sustainable development, in that it will have a significant detrimental impact on the rural character of the location on the edge of the built up area, to which residential development of this nature is not typical of the immediate surrounding area. The site is not an allocated site for residential development and as such is contrary to the policies of the North Shropshire Local Plan and the Council's SAMDev which now has significant and substantial planning weight and as such the development is contrary to Policies CS1, CS3, CS5, CS6 and CS17 of the Shropshire Core Strategy and the National Planning Policy Framework.
2. No completed Section 106 Agreement in accordance with the Town and Country Planning Act 1990 in relationship to planning obligations accompanies the application. Therefore, the proposal is considered contrary to Policy CS11 of the Shropshire Core Strategy.

15/03710/OUT

Ian Kilby Development Manager
Date of Decision: 7th December 2015

NOTES

Appeals to the Secretary of State

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then the applicant can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.

An appeal must be made within six months of the date of this notice, or 12-weeks if the scheme is for that of "household" development, or minor commercial application, or within 8 weeks in the case of advertisement appeals. The appeal must be made on a form which can be obtained from the Planning Inspectorate at Customs Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://www.gov.uk/government/organisations/planning-inspectorate>

Where an enforcement notice has been served on the same, or substantially the same, development as in the application within 2 years of the date the application was made, the period for receiving an appeal is 28 days of the date on the decision notice or the date by which the LPA should have decided the application. Where an enforcement notice was served after the decision notice was issued or after the end of the period the LPA has to determine the application, the period for receiving an appeal is within 28 days of the date the enforcement notice was served (unless this extends the normal 12 week deadline).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Purchase Notices

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the District Council requiring the Council to purchase the interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appeal Decision

Hearing held on 16 August 2016

Site visit made on 16 August 2016

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 06 June 2017

Appeal Ref: APP/L3245/W/16/3141912
Soulton Road, Wem, Shropshire

- 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 Mr Marcus Marsh (AFM Farming LLP) against the decision of Shropshire Council.
 - The application Ref 15/03710/OUT, dated 26 August 2015, was refused by notice dated 7 December 2015.
 - The development proposed is **described as an 'outline planning application for residential development of up to 37 dwellings, with access'**.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was submitted in outline with only access to be decided at this stage. I have therefore treated the submitted layout plan as indicative only, and have decided the appeal on this basis.

Main Issue

3. The main issue in this case is whether the proposed development would provide a suitable site for housing, having regard to the character and appearance of the area and the development plan.

Reasons

4. The fairly flat appeal site lies on the eastern side of Wem, and comprises part of an arable field. To the west of the site lies 5 large detached dwellings on Church Lane; to the north lies Ash Grove, a small residential cul-de-sac, with a new housing development immediately to the west of it. To the east and south are open fields. When approaching Wem from the east along Soulton Road the site appears as an open field, with the detached dwellings on Church Lane providing a backdrop to the top half of the site.
 5. The housing to the north does not come into view until around the east boundary of the site is reached, where the proposed access would be approximately sited. The indicative plan shows that around 37 dwellings could be located on the appeal site. Various attractive mature trees are located along the north and west boundaries; these are shown in the plans to be retained as part of the proposal.
-

6. The indicative scheme shows the proposed dwellings located across the northern and eastern sides of the site. In the south west corner a large public open space area is proposed. This would tie in well with a similar area of open land on the opposite side of Church Lane. However, at present the site by virtue of its visible location on the edge of the town and open, arable nature has the character of a peaceful rural area, which the development would adversely affect. The proposal would form a noticeable and significant intrusion into what is currently open countryside and would urbanise the eastern edge of the town, extending the town further into the rural area and affecting the tranquil character of the area.
7. Due to the curvature of Soulton Road, and the open nature of views across the area to the south of the road, this effect would be prominent and noticeable to those entering and leaving the town both from and towards the east. The houses orientated to and overlooking the site from Church Lane provide a well-defined edge to the town which would be significantly and adversely altered by the proposal, causing substantial harm to the character and appearance of the area.

Development Plan

8. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy (Core Strategy) establishes the strategic approach to development. The policy states that Market Towns and Key Centres will accommodate around 40% of the residential development over the plan period and that outside settlements, development will primarily be for the needs of local communities for affordable housing. It is common ground between the parties that the site does not lie within the settlement boundary for Wem and thus is considered in policy terms to be open countryside.
9. Policy CS5 states that in the countryside new development will be strictly controlled. Although the list of allowable development proposals is not exhaustive, the policy includes a provision that development proposals on appropriate sites should maintain countryside vitality and character. For the reasons given above I do not consider that the scheme would accord with this requirement.
10. Policy CS3 defines Wem as a Market Town and Key Centre. It states that the settlement will have development to strengthen its economic role and support and enhance its important community assets and maintain its role as a sustainable place. Policy CS6 aims to ensure that all development is appropriate in scale and design taking into account the local context and character.
11. The Site Allocations and Management of Development Plan (SAMDev) was adopted in mid-December 2015, a short time after the application was refused. Policy MD1 of this document states that sustainable development will be supported in Market Towns and Key Centres having regard to various development plan policies, including Core Strategy policy CS3 and SAMDev policies S17 and MD3.
12. Policy S17 is the settlement policy for Wem. This plans for the modest growth of around 500 dwellings. Evidence states that this guideline allocation is already catered for. Supporting text notes that the town will need to accommodate housing within its development boundary and that there are

significant opportunities for development of windfall sites within the development boundary.

13. Policy MD3 states that, in addition to settlement allocations, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan (the Core Strategy and the SAMDev taken together), and that the settlement housing guideline is a significant policy consideration. Where a development would likely lead to more dwellings than the guideline, decisions will have regard to a number of factors, including the presumption in favour of sustainable development. The policy also states that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement development boundaries that accord with the settlement policy may be acceptable subject to the same factors. In this way sites outside the development boundary will only be considered where the housing guideline for the settlement would be unlikely to be met, a situation not likely to occur in this instance at the present time.
14. Finally, Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside the Market Towns and Key Centres.
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is confirmed by the National Planning Policy Framework (the Framework).

Five Year Housing Land Supply

16. The Framework is a material consideration, and states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Prior to the Hearing and following an appeal at Teal Drive, Ellesmere the appellant raised concerns over whether or not the council could demonstrate a five year housing land supply **due to conclusions within that decision concerning the Council's full, objectively assessed needs (FOAN) for market and affordable housing.** This was subsequently challenged in the High Court and the decision was quashed.
17. The Planning Practice Guidance advises that the housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. However, it also states that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. The housing figures contained within the Core Strategy date from the previous West Midlands Regional Spatial Strategy. The purpose of the SAMDev is to provide policies and to allocate sites to meet these requirements. The SAMDev has been fairly recently considered and found to be sound. Its adoption postdates both the Framework and the Planning Practice Guidance.
18. In July 2016 the Council published a detailed report, which concludes that the FOAN for housing between 2016 and 2036 is around 25,178 dwellings, equating to 1,259 dwellings a year. This is slightly lower than the 1,375 annual dwelling requirement in the Core Strategy for 2006-2026. A great deal of time was spent at the hearing discussing the reliability of this more recent

assessment. This included concerns by the appellant about whether the FOAN had taken sufficient account of affordable housing needs. However, this and the other matters raised will be considered in due course when the development plan is reviewed. In the original appeal representations the appellant questioned the deliverability of a number of the supply sites. However, since then there have been several appeal decisions that have **supported the council's position in relation to its five year housing land supply**. In particular the matter was considered at an inquiry in October 2016 concerning a proposal for 137 houses at Foldgate Lane, Ludlow. Here the Inspector concluded that the council was able to demonstrate a deliverable supply based on the requirement in policy CS1 of the Core Strategy. As this requirement is higher than the FOAN advocated in the July 2016 assessment it seems to me robust. It is notable that the appellant subsequently confirmed **that the council's identified housing land need and supply was not being** challenged.

19. In the circumstances I have no reason to doubt that the Council has a five year housing land supply, and that consequently the housing policies contained within the Local Plan remain up to date.

Sustainable development

20. Wem is a reasonably sized town with a range of services located within it. The town is split by a railway line heading roughly north to south, with the majority of the town being on the west side of the tracks. The site falls within the area of town on the east side of this line, and is thus separated from the main part of the town by the railway line and crossing. In evidence at the Hearing, a local councillor and resident described the difficulties this can cause in terms of congestion and disruption, particularly at peak times, as well as issues of rat running to avoid such congestion. However, the Council and the Highways Authority raise no objection to the scheme based on this ground. Whilst the scheme would inevitably add some traffic to this area at peak times, I have no substantive evidence that this would lead to an adverse effect upon highway safety. The town is well within walking distance and I consider the site in this respect to be sustainably located.
21. The proposal would have a positive economic impact through the construction of around 37 new houses, and the money that residents of the proposed dwellings would spend in the local economy. The proposal would also generate social benefits by providing housing, both open market and affordable. An increase in local residents would also bring benefits through adding to the community and assisting local services, including through CIL payments.
22. An ecological report submitted by the appellant details measures to increase and maintain biodiversity at the site, primarily based on new planting and the gapping up of small breaks in the existing hedgerows. However, this needs to be set against the removal of hedge that would need to take place to form access to the site, and as a result I do not consider that such benefits would be significant.
23. There are three dimensions to sustainable development. Whilst the proposal would provide economic and social benefits, the substantial environmental effects of the scheme that I have described above on the character and appearance of the area means that the proposal overall does not represent sustainable development. The scheme would be contrary to the core planning

principles of the Framework that planning should be genuinely plan led, and should take account of the different roles and character of different areas recognising the intrinsic character and beauty of the countryside.

24. I therefore conclude that the proposed development would not provide a suitable site for housing, having regard to the character and appearance of the area and to the development plan.

Other Matters

25. An appeal decision for a site on the opposite side of the road is provided in evidence. This allowed ten new houses at the end of Ash Grove. The Inspector concluded that the proposal would constitute sustainable development, considering that the site was sustainably located and that the scheme would have an acceptable impact on the character and appearance of the area. However, this site is significantly different to that proposed in this case due to its brownfield nature and the fact that it forms a relatively well screened site on the north side of the road, located between Ash Grove and an area of woodland. Furthermore, I note that this decision was made prior to the adoption of the SAMDev, to which the Inspector only gave moderate weight. The new scheme to the west of Ash Grove is an affordable housing scheme, and thus in effect constitutes an exception site.
26. The appellant raises concern over housing delivery in the spatial zone of North East Shropshire, noting that the Framework seeks to boost significantly the supply of housing, that housing completions in Shropshire are significantly lower than might be expected within the plan period, and that there is a high requirement for windfall development in the area. It considers that the Council's statement provides no evidence that this can be accommodated in settlement boundaries.
27. It was explained in the Hearing that the spatial zone approach to planning development utilised in Core Strategy policy CS1 was found to not be effective due to overlapping issues and so was not used in policy MD3 of the SAMDev. As stated above, this policy allows for additional sites outside development boundaries where the housing guideline appears unlikely to be met and supporting text notes the importance of windfall sites where sustainable. However, for the reasons given above I do not consider the appeal site to be sustainable in this case. Furthermore, I also note that, as described above, supporting text to policy S17 of the SAMDev states that there are significant opportunities for development of windfall sites within the development boundary of Wem.
28. I have been referred by both the council and the appellant to a large number of appeal decisions. However, the majority of these decisions predated the adoption of the SAMDev and therefore the statutory policy position was different. The decisions at Cross Houses and All Stretton postdate the SAMDev adoption. However, in those cases the Inspectors found that the proposal would not have an adverse effect on the countryside and would constitute sustainable development. I have reached a different conclusion on this appeal.
29. Subsequent to the Hearing various other appeal decisions have been submitted by both parties. The decision relating to Queens Head, Oswestry relates to a small infill site and would thus not appear as an encroachment into the countryside, in the way that I have concluded this appeal would. My colleague

in the Foldgate Lane, Ludlow decision concluded that the site would have a minimal impact on the character and appearance of the area, which also varies to my conclusions above. Whilst I note some differences in the interpretation of the local plan policies within the various appeal decisions referred to me, I have outlined my view on such policies in paragraphs 8-15 above and the submitted decisions do not lead me to any different conclusions on this matter.

30. A signed Section 106 agreement covering matters of affordable housing was submitted within the evidence. Other than the social benefits of this provision, which I have considered above, I have not considered this matter further given that I am dismissing the appeal.

Conclusion

31. The proposal would be contrary to the development plan when taken as a whole and conflict with policies CS1, CS5, CS3 of the Core Strategy and policies MD1, S17, MD3 and MD7a of the SAMDev. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stuart Thomas	Berrys
Helen Howie	Berrys

FOR THE LOCAL PLANNING AUTHORITY

Philip Mullineux	Shropshire Council
Edward West	Shropshire Council

INTERESTED PARTIES:

Cllr Chris Mellings	Ward Councillor
Paul H Naylor	Local resident
Carole Warner	Clerk to Wem Rural Parish Council
Sue Austin	Shropshire Star

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter from the Treasury Secretary, Government Legal Department to The Planning Court, dated 09/08/16 ref Z1615973/ASM/B5
2. Appeal Decision APP/L3245/W/16/3149461, Yew Tree Inn, Shrewsbury Road, All Stretton, Shropshire.
3. CO/2850/2016 Submission to High Court, Shropshire Council v SoSDCLG and BDW Trading Limited, 24/06/16.
4. Traffic Survey submitted by Mr Naylor.
5. Appeal Decision APP/L3245/W/16/3142894, Land off Mount Close, Pontesbury, Shrewsbury, Shropshire.
6. Satnam Millenium Limited v Warrington Borough Council, [2015] EWHC 370 (Admin).
7. Kings Lynn and West Norfolk BC v SoSCLG and Elm Park Holdings Ltd, [2015] EWHC 2464 (Admin).

8. Kings Lynn and West Norfolk BC v SoSCLG and Elm Park Holdings Ltd, [2015] EWHC 2464 (Admin) – Alternative numbering to Document (7), derived from Westlaw UK.
9. Excerpt from Shropshire Adopted Core Strategy March 2011, Policy CS10.
10. List of Neighbours and Consultees consulted on Hearing date. Shropshire County Council.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Appeal Decision APP/L3245/W/15/3137161, Land at Foldgate Lane, Ludlow and covering email dated 11/11/16 from the Appellants.
2. Shropshire Council v SoSCLG, BDW Trading Limited trading as David Wilson Homes (Mercia), Magnus Charles Mowat, and Martin John Mowat [2016] EWHC 2733 (Admin), 02/11/16, and covering press release (unattributed).
3. Email from the LPA, dated 28/11/16, in response to (1) above.
4. Email from the appellants, dated 30/11/16, in response to (2) above, and providing more evidence in relation to (1).
5. Appeal decisions APP/L3245/W/15/3138752 & APP/L3245/W/15/3138755, The Larches, Shawbury Road, Wem, Shropshire and covering email dated 07/12/16 from the LPA.
6. Final comments from the appellants referring to (5) above, email dated 16/12/16.

Site Location Plan and Indicative Site Layout:



BERRYS
 Willow House East
 Stowbury Business Park
 Stowbury SY2 6LO
 Tel: 01743 271697
 Fax: 01743 271753
 www.berrys.com

Client: AFM Farming LLP

Project: Housing development of 37 dwellings off Boulton Road, Wem, Shropshire, SY4 5RW

Drawing: Location plan, proposed block plan showing access and indicative layout

Drawing Number	Rev	Scale	Panel	Drawn By	DC
SA20230-01		As Noted	A1		Date June 2015

Land off Soulton Road, Wem Ecological Survey Report

Prepared for Berrys

August 2015

Rev00

TURNSTONE ECOLOGY

Project Number TT1806

Title Land off Soulton Road, Wem

Document Number R01- Ecological Survey Report-Rev00

Client Berrys

Issue Date August 2015

Prepared by:

Mark Gash 10/08/2015
Director

Checked and Approved
For Issue by: Mark Gash
Director 10/08/2015

This report has been prepared by Turnstone Ecology Limited, with all reasonable skill, care and diligence within the terms of the Contract with the client.

We disclaim any responsibility to the client and others in respect of any matters outside the scope of the above.

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Table of Contents

1	Introduction	5
1.1	General	5
1.2	Ecological Context	6
1.3	Designated Sites	7
2	Methods.....	8
2.1	Ecological Field-Survey and Assessment	8
2.2	Phase 1 Habitat Survey.....	8
2.3	Protected Vertebrates Survey and Assessment	8
2.3.1	Badger	8
2.3.2	Bats.....	9
2.3.3	Dormouse	9
2.3.4	Nesting Birds	9
2.3.5	Great Crested Newt	9
2.3.6	Reptiles.....	9
2.4	Criteria for Assessment	10
3	Results.....	12
3.1	Phase 1 Survey	12
3.2	Habitats	12
3.2.1	Arable.....	12
3.2.2	Field Margins.....	13
3.2.3	Hedgerows and Scattered Trees.....	16
3.3	Protected Vertebrates.....	16
3.3.1	Badger	16
3.3.2	Bats.....	17
3.3.3	Dormouse	17
3.3.4	Nesting Birds	18
3.3.5	Great Crested Newt	18
3.3.6	Reptiles.....	18
4	Evaluation and Recommendations	19
4.1	Habitats and Designated Sites.....	19

4.1.1	Impacts	19
4.1.2	Recommendations	20
4.2	Protected Species.....	20
4.2.1	General	20
4.2.2	Badgers.....	21
4.2.3	Bats.....	21
4.2.4	Dormouse	22
4.2.5	Nesting birds.....	22
4.2.6	Great Crested Newt	23
4.2.7	Reptiles.....	23
5	Legal Protection	24
5.1	Badger	24
5.2	Bats.....	24
5.3	Dormice.....	25
5.4	Nesting Birds.....	25
5.5	Great Crested Newt	26
5.6	Common Reptile Species.....	26

1 INTRODUCTION

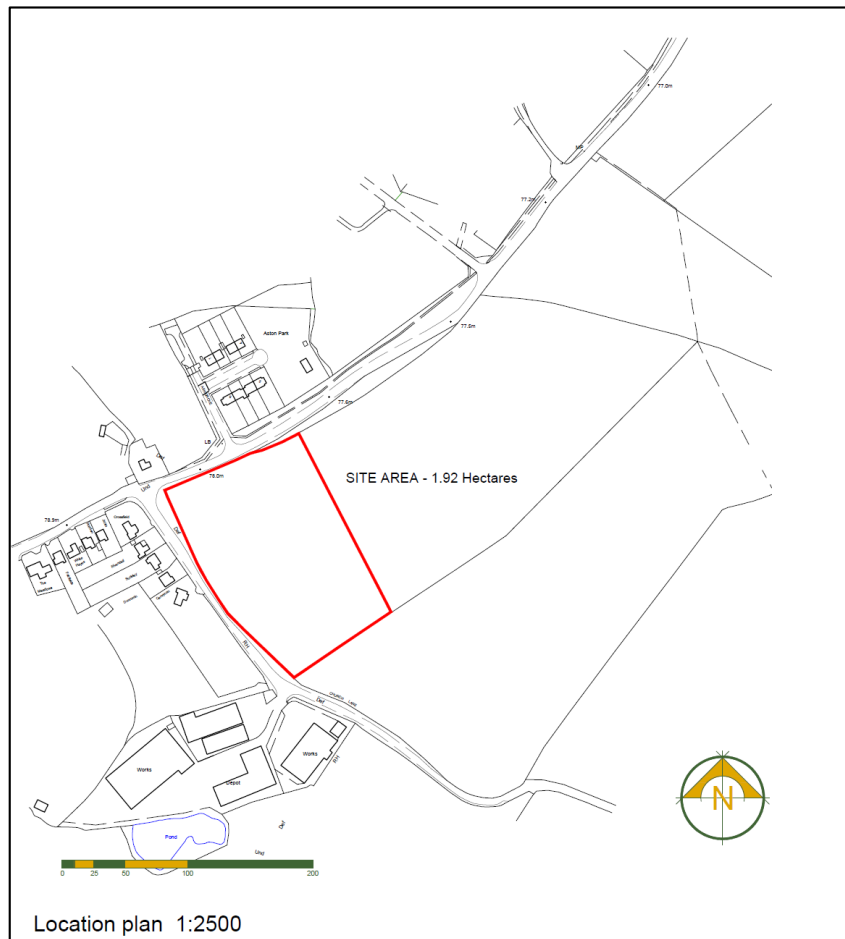
1.1 General

This report presents the methods, results and evaluations following a Phase 1 Habitat Survey and Protected Species Survey in connection with a proposal to construct thirty seven residential properties on a plot of land off Soulton Road, Wem, Shropshire (OS Grid Reference: SJ 524 292). The location of the proposed development site is shown in *Figures 1* and 2.

Figure 1. Location of proposed development



Figure 2. Proposed development site



1.2 Ecological Context

The proposed development site is located on the eastern edge of Wem, Shropshire. Soulton Road runs east to west along the site's northern boundary and Church Lane is adjacent to the site's western boundary.

The development site comprises a section of a field which at the time of survey was dominated by Maize (*Zea mays*), and is bordered by narrow field margins and hedgerows to the north, south and west, all of which are dominated by Hawthorn (*Crataegus monogyna*). The hedgerows along the western and southern boundaries are intact and not gappy however there are frequent gaps along the northern boundary hedge, especially at the western end. The arable field extends past the eastern boundary of the proposed site and as such there is no existing linear feature demarking this boundary. There is a field entrance in the south-west corner of the site which leads off Church Lane and a post and wire fence that runs alongside the northern and western boundary hedgerows.

To the west of the site, beyond Church Lane, is a cricket ground and a depot with an adjacent pond further to the west. The pond is approximately 130m from the site's south-western boundary. Further west of the site is the eastern edge of Wem whilst agricultural land dominates beyond the southern and eastern boundaries of the site. To the north of the site are residential properties adjacent to Soulton Road as well as a large caravan site and sporadic patches of woodland, beyond which lies more agricultural fields.

1.3 Designated Sites

There are no designated sites within 2 km of the proposed development site.

2 METHODS

2.1 Ecological Field-Survey and Assessment

The Phase 1 Habitat Survey and Protected Species Survey was carried out on 14th July 2015 during warm and dry conditions. Access to the proposed development site was sufficient to successfully complete the required surveys.

2.2 Phase 1 Habitat Survey

The survey methods were based on the Phase 1 Habitat Survey approach (Joint Nature Conservation Committee 2003), which is a standardised method to survey main habitat types. Plant nomenclature in this report follows Rose (*Revised Edition 2006*) for native, naturalised and garden varieties of vascular plant. Introduced species and garden varieties are not always identified.

2.3 Protected Vertebrates Survey and Assessment

The habitats on site were assessed for suitability for protected vertebrates that occur in the region. Obvious signs and incidental sightings of protected species would have been noted had they been encountered. Taking into consideration the geographical region and habitat types, species and groups that could be encountered are;

- Badger;
- Bats;
- Dormouse;
- Nesting birds;
- Great Crested Newts;
- Reptile species;

Details of initial survey methods for each relevant species are given below.

2.3.1 Badger

A comprehensive assessment was carried out to identify areas that are used by Badgers (*Meles meles*) for foraging and sett digging. Signs of Badgers including setts, incidental foraging signs, paths and latrines, would have been recorded if they had been encountered.

2.3.2 *Bats*

Any buildings and trees were visually surveyed to assess them for their potential to support roosting bats, although a thorough inspection of all potential roosting features would not necessarily be undertaken as part of the Phase 1 survey.

Habitats on site were also assessed for their suitability for foraging or commuting bats. Areas of particular interest vary between species, but generally include sheltered areas and those habitats with good numbers of insects, such as woodland, scrub, hedges, watercourses, ponds, lakes and more species-rich or rough grassland.

2.3.3 *Dormouse*

Habitats were assessed for their general suitability for Dormouse (*Muscardinus avellanarius*), which generally use areas of dense woody vegetation cover. Dormice are most likely to be found where there is a wide diversity of woody species contributing to three-dimensional habitat complexity, a number of food sources, plants suitable for nest-building material and good connectivity to other areas of suitable habitat.

2.3.4 *Nesting Birds*

Habitat that might be used by nesting birds was identified and actively nesting birds noted. Different bird species use buildings, trees and shrubs, undergrowth or even open fields for nesting and suitability of the site for use by a range of nesting bird species was considered.

2.3.5 *Great Crested Newt*

The suitability of any aquatic and terrestrial habitat on the site and in the immediate vicinity, up to 500 m from the site (a distance that Great Crested Newt (*Triturus cristatus*) can travel between ponds and terrestrial habitat), was considered, along with the habitat connectivity between suitable habitat areas.

2.3.6 *Reptiles*

The site was assessed for widespread species of reptiles, with particular attention paid to those features that could be used as basking areas (*e.g.* south-facing slopes), hibernation sites (*e.g.* banks, walls, piles of hardcore) and opportunities for foraging (*e.g.* rough grassland and scrub). The site was assessed for its suitability for the commoner reptile species which have broadly similar habitat requirements but more specific requirements include the following. Common Lizards (*Zootoca vivipara*) use a variety of habitats from woodland glades to walls and pastures, although one habitat they use is brownfield sites. Slow-worms (*Anguis fragilis*) use similar habitats to Common Lizards, and are often found in rank grassland, gardens and derelict land. Grass Snakes (*Natrix natrix*) have broadly similar requirements to Common Lizards but with a greater reliance on ponds and wetlands, where they prey on Common Frogs.

2.4 Criteria for Assessment

The scientific value of habitats for nature conservation is assessed according to widely accepted criteria of which the most important are naturalness, extent, rarity, and diversity. These and others are described in an extensive literature (Ratcliffe 1977, Usher 1986).

In addition, the following evaluation frameworks and legislation have been considered when assessing the value of different habitats;

- Criteria that have been developed to assist in the identification of statutory SSSIs (NCC 1989);
- Habitats of Principal Importance included under Section 41 (England) and Section 42 (Wales) of the Natural Environment and Rural Communities (NERC) Act 2006;
- The Shropshire BAP, which identifies and prioritises local habitats of conservation importance;
- The legal status of habitats according to the EU ‘Habitats’ Directive 1992; and
- Institute of Ecology and Environmental Management (IEEM) Guidelines (2006) for assessing the value of ecological receptors within a defined geographical context using the following categories: international (*i.e.* Europe); UK and national (England); regional; county; Unitary Authority; local or parish; and zone of influence. Receptors are identified as ‘important’ at these levels, or as ‘not important’.

Significant species were defined as follows;

- Species protected by European directives;
- Species protected by the *Wildlife and Countryside Act 1981* (as amended);
- Species of Principle Importance included under Section 41 (England) and Section 42 (Wales) of the Natural Environment and Rural Communities (NERC) Act 2006;
- The Shropshire BAP, which identifies and prioritises local species and habitats of conservation importance;
- The legal status of species according to the ‘Habitats’ Directive 1992; and
- Other species listed as scarce or notable in literature issued by conservation organisations or learned societies *e.g.* vascular plant species listed in Stewart *et al.* (1994) and Red and Amber List Birds of Conservation Concern (Eaton *et al.* 2009).

The Shropshire Biodiversity Action Plan includes plans for habitats and species and plans covering processes or landscape scale areas. These are;

- Habitats: Field margins, floodplain grazing marsh, hedgerows, lowland dry acid grassland, lowland heathland, lowland wood pasture, parkland and veteran trees, peat bogs, reed beds, rivers and streams, semi-improved upland rough grazing, semi-natural broadleaved woodlands, species rich grassland, standing open water, upland heathland and urban areas.
- Species: Farmland birds, Argent and Sable Moth (*Rheumaptera hastata*), Great Crested Newt, Barn Owl (*Tyto alba*), Lapwing (*Vanellus vanellus*), Song Thrush (*Turdus philomelos*), Common Snipe (*Gallinago gallinago*), Brown Hare (*Lepus europaeus*), Club-tailed Dragonfly

(*Gomphus vulgatissimus*), Curlew (*Numenius arquata*), Dingy Skipper (*Erynnis tages*), Dipper (*Cinclus cinclus*), Dormouse, Water Vole (*Arvicola amphibius*), Floating Water Plantain (*Luronium natans*), Marsh Flapwort (*Jamesoniella undulifolia*) and Grayling (*Hipparchia semele*).

3 RESULTS

3.1 Phase 1 Survey

The following habitat types were recorded on or immediately adjacent to the development site:

- Arable;
- Field margins; and
- Hedgerows and scattered trees.

The site or immediately adjacent areas contain habitat suitable for the following protected vertebrates;

- Badger;
- Bats;
- Dormouse
- Nesting birds;
- Great Crested Newts; and
- Reptiles.

3.2 Habitats

3.2.1 Arable

The proposed development site is located in part of an arable field currently accessed through an existing field entrance off Church Lane. The field at the time of the survey was planted with Maize, however some *Brassica sp.* plants were also present as was a significant amount of Chickweed (*Stellaria sp.*) at the north-western end of the field.

Plate 1. The arable field (looking south-west toward the southern and western site boundaries)



3.2.2 Field Margins

The development site is surrounded on three sides by hedgerows and narrow field margins, which differ in diversity of species.

The northern margin is the widest, at 2m across, and is the most diverse (Plate 2). It contains a mix of False Oat Grass (*Arrhenatherum elatius*), Common Couch (*Elymus repens*), Perennial Rye Grass (*Lolium perenne*), Bramble (*Rubus fruticosus*), Common Nettle (*Urtica dioica*), Cow Parsley (*Anthriscus sylvestris*), Cleavers (*Galium aparine*), Broadleaf Dock (*Rumex obtusifolius*) and Ground Ivy (*Glechoma hederacea*). The species which appear less frequently along the northern margin include Ragwort (*Jacobaea vulgaris*), Creeping Thistle (*Cirsium arvense*), Poppy (*Papaver rhoeas*), Mallow (*Malva sp.*) and Spear Thistle (*Cirsium vulgare*).

Plate 2. Northern boundary hedgerow and field margin (looking west).



The western field margin (*Plate 3*) is 1m wide and contains many of the same species as the northern margin including Ground Ivy, Broadleaf Dock, Common Nettle, Spear Thistle, Bramble, False Oat Grass, Perennial Rye Grass, Common Couch and Ragwort. There are also some additional species including Ox Eye Daisy (*Leucanthemum vulgare*), Groundsel (*Senecio vulgaris*), Bladder Campion (*Silene vulgaris*) and White Campion (*Silene latifolia*).

Plate 3. Western boundary hedgerow and field margin (looking north-north-west).



The southern field margin is also 1m wide however much less diverse than those on the western and northern boundaries (*Plate 4*). Its dominant species are Common Nettle, Ox Eye Daisy, Hogweed (*Heracleum sphondylium*), Cow Parsley, Bramble, Perennial Rye Grass, Common Couch, False Oat Grass and Creeping Thistle.

Plate 4. Southern hedgerow and field margin (looking south-east)



3.2.3 Hedgerows and Scattered Trees

The northern hedgerow is approximately 2.5 to 3m high and the same in width. It is unmanaged but gappy, especially towards its western end. It is dominated by Hawthorn and Blackthorn (*Prunus spinosa*) but Holly (*Ilex sp.*) and Common Ivy (*Hedera helix*) were also noted. There is one semi-mature and one mature Oak tree within the hedgerow.

The western hedgerow is approximately 2.5 - 3m high and the same in width. Similar to the northern hedgerow it is thick and unmanaged but contains more tree species and apart from the field entrance at the southern end of the hedgerow it is not gappy. The dominant species are Hawthorn and Elder (*Sambucus nigra*), but several other species were noted including Holly, Wayfarer (*Viburnum lantana*), Snowberry (*Symphoricarpos sp.*) and Leylandii (*Cupressus x leylandii*). A single semi-mature Silver Birch, two semi-mature and fruiting Hazel trees and three Oak (two mature and one semi-mature) are also present along the hedge.

The southern hedgerow is 2m tall and managed. It's not very diverse and is almost entirely dominated by Hawthorn with very occasional Elder.

3.3 Protected Vertebrates

The surveys aims were to identify evidence of protected species, such as Badger setts, and also locate habitats/features where hard to see protected species, such as amphibians and reptiles, may be present. Local records were sourced from the Shropshire Ecological Data Network and freely available data on the internet.

3.3.1 Badger

A single animal hole (*Plate 5*) is present at the western end of the southern hedgerow. The hole is assessed as partial-used as while it was overgrown with grasses and bramble it wasn't blocked or collapsed. The hole could possibly have been dug by Badger however there was no evidence of Badger around or in the vicinity of the hole or evidence to suggest recent activity by any animal.

Plate 5. Large hole present at the western end of southern site boundary



Further to the east along the southern boundary a couple of animal runs were noted going under the hedge and in to the agricultural field beyond however there were no signs of badgers or conclusive evidence of other animals along the field margin or around the animal runs.

The arable field, currently containing maize, provides a suitable foraging habitat for Badgers as do the narrow field margins. The hedge bases along the southern end of the site could ultimately provide a suitable habitat for setts to be located in the future.

3.3.2 Bats

The mature Oak trees along the site's northern and western boundaries contain features (cracks and spits) that could support roosting bats but none of the other scattered trees around site appeared to have suitable features.

The hedgerows that border the site offer suitable commuting and foraging habitats but that arable field is unlikely to be of importance to bats.

3.3.3 Dormouse

There is a historic record of Dormouse from Stoke Wood, which is approximately 2 km east of the proposed development site.

The boundary hedgerows and trees provide suitable cover and food plants for Dormouse, especially the site's western boundary. However the western hedgerow is effectively a short section of hedge with

gaps at both its southern end (field gate) and at its northern end where it borders Soulton Road. The southern and northern hedgerows are gappy and / or species poor and are poorly connected to any optimal and more extensive Dormouse habitats within the wider countryside.

3.3.4 Nesting Birds

All three boundary hedgerows are suitable for breeding birds. In particular, the thick unmanaged hedgerows to the north and west are likely to support a small number of nesting bird species, including Yellowhammer (*Emberiza citrinella*) and House Sparrow (*Passer domesticus*), both of which were recorded during the survey.

The arable field could possibly support species of ground-nesting bird however none were noted during the site survey.

3.3.5 Great Crested Newt

There are no records of Great Crested Newts within 2 km of the development site.

There are two ponds within 500m of the site one is 130m to the south-west whilst the other is 350m beyond the site's eastern boundary.

The site's boundary hedgerows offer suitable commuting, foraging and hibernating habitats for Great Crested Newts, although they are poorly connected to suitable breeding habitat and more extensive terrestrial habitat. The arable field that dominates the development site is unsuitable for hibernating and foraging Great Crested Newts but they could potentially disperse across the field when crops are present and provide some cover.

3.3.6 Reptiles

There are no historic records of reptiles within 2 km of the proposed development site.

The arable field itself is unsuitable for reptiles, however the hedgerows and their margins do provide some cover suitable for foraging, dispersing and hibernating reptiles, although connectivity to more extensive suitable reptile habitat is poor.

4 EVALUATION AND RECOMMENDATIONS

4.1 Habitats and Designated Sites

4.1.1 Impacts

The proposals are to construct thirty-seven residential properties (*Figure 3*), which will result in the loss of an area of ecologically poor arable field. A small section of the northern hedgerow will also be lost to create access in to the site, however the access point is in a section of gappy hedge so loss of hedgerow plants will be minimal. All other boundary hedgerows and the semi-mature and mature trees and field margins will be retained.

These habitats and immediately adjacent areas are of no significant botanical interest but do have limited potential to support a number of protected vertebrate species.

Figure 3. The proposed development plan



The Shropshire BAP lists 16 Habitat Action Plans but none of these habitats will be significantly affected by the proposed development. The site is also not designated for its wildlife interest at an international, national or local level and no legally protected plant species were identified or are likely in the habitats encountered.

4.1.2 Recommendations

In order to maintain and increase biodiversity at the site and protect adjacent habitat it is recommended the following mitigation measures and safe working methods are incorporated into the proposals.

The proposed areas of groundworks will need to be confined to areas that will not impact on the root systems of the retained sections of the northern, western and southern boundary hedges as well as the semi-mature and mature trees within the western and northern hedgerows. An appropriate buffer, as detailed in BS5827:2012, will need to be established prior to works commencing on site.

Planting is included within the proposed development plan including new planting at the existing field entrance off Church Lane and along the site's eastern boundary. Planting will also be completed along the site's northern boundary where there are gaps in the existing hedges. All planting should be of native and locally occurring plant species and include Hawthorn, Blackthorn, Oak and Ash. In addition a suitable hedgerow plant / wildflower seed mix should also be sown within and immediately adjacent to the bases of the new planting.

A large landscaped area will be created in the south-western part of the site. This area will include scattered trees as well as a water attenuation pond and associated landscaping. Any trees planted will be of locally occurring and native broadleaved tree species and the pond should be ecologically enhanced including planting of native aquatic and emergent plants. Landscaping around the pond should include the sowing of wildflower seeds to provide nectar sources for pollinating insects and scrub should be allowed to develop adjacent to the site's western boundary hedge.

The habitat protection, creation and subsequent management will increase connectivity and species diversity around the site and provide increased opportunities for a range of flora and fauna.

4.2 Protected Species

4.2.1 General

The proposed development will result in the loss of an ecologically poor arable field as well as the loss of a small section of the site's northern hedgerow. All other boundary features including hedgerows, field margins and semi-mature and mature trees will be retained.

There are habitats and features with suitability for Badgers, foraging bats, nesting birds, Great Crested Newt and reptiles within or adjacent to the proposed development area.

A range of measures are recommended below to ensure no direct or indirect impacts on protected species, as well as an appropriate level of ecological enhancement to comply with the National Planning Policy Framework.

4.2.2 Badgers

The loss of the arable field is not considered to be significant for any Badgers within the vicinity of the development site due to the amount of alternative foraging habitats, including further areas of farmland and woodland, surrounding the site.

A single animal hole, possibly dug by Badger, is located at the western end of the southern hedgerow which at the time of the survey was not being actively used by Badgers or any other animal. It is possible that Badgers could re-occupy this hole before construction works and it is therefore recommended that a pre-construction survey is completed three months before works are due to start. It is likely however, based on the site plan, that this hole will not be directly or indirectly affected by construction works due to the distance of building works from the south-west corner of the site.

Although significant negative impacts on Badgers are not predicted it is recommended that mitigation measures are put in place to ensure foraging Badgers do not become trapped within any excavation works associated with construction works. Excavations should either not be left uncovered overnight, or ways of escape for Badgers provided (wooden planks or graded earth banks).

4.2.3 Bats

A small gap will be created in the already gappy northern hedgerow, however the remaining boundary hedges, including semi-mature and mature trees, will be retained and enhanced as part of the development, and therefore suitable roosting, commuting and foraging habitats for bats will be unaffected. The creation of a new eastern boundary hedge as well as enhancements to retained hedgerows will improve foraging and commuting habitats for bats. The creation of a landscaped area with attenuation pond will also increase foraging opportunities for bats.

A lighting plan should be developed to ensure that boundary features, including the Oak trees suitable for roosting bats, are not adversely affected by artificial light and that bats roosting in the vicinity of the development are not themselves affected by the proposals. The lighting plan will reflect the Bat Conservation Trust Bats and Lighting in the UK guidance (2009) and will include directing lighting away from the trees and hedgerows around the site to ensure suitable roosting, foraging and commuting habitats remain unlit.

In order to improve roosting opportunities and ultimately have a positive impacts on bats it is recommended bat tubes / bricks are installed in to the four properties or their detached garages adjacent to the southern boundary hedgerow.

4.2.4 Dormouse

There is a historic record of Dormouse approximately 2 km from the proposed development site and whilst the site's western hedgerow is suitable habitat for Dormouse it is considered unlikely that this species will be present due to poor connectivity between this hedge and the wider countryside. The site's northern and southern edge are unlikely to support Dormouse due to regular gaps in the northern hedgerow and poor species diversity in both.

It is therefore considered that this species will not be present in the site's hedgerows and will not be affected by the proposals.

4.2.5 Nesting birds

The arable field could potentially support ground-nesting birds however it is certainly not optimal habitat and its loss is considered to be not significant.

The site's hedgerows with semi-mature and mature trees could support limited numbers of lowland farmland bird species including House Sparrow and Yellowhammer, both of which were noted during the survey. The proposals will result in the loss of a small section of the northern hedgerow however this is in an area which is already gappy and therefore of limited suitability for nesting birds.

Clearance works associated with creating the access point in the northern hedgerow and of the arable field should be completed outside of the bird nesting season (March to August inclusive), or after a survey and hand-search for nesting birds, which should be completed by a suitably qualified ecologist.

Existing nesting and foraging opportunities will be enhanced through the creation of a new eastern hedgerow as well as additional planting in the sites western and northern hedgerows and creation of a landscaped area with attenuation pond. Nesting opportunities should be further enhanced through the provision of four tree mounted nest boxes and nesting opportunities for House Sparrow (*Passer domesticus*), Swift (*Apus apus*) and House Martin (*Delichon urbicum*) should be incorporated in to the design of the proposed residential dwellings.

Taking in to consideration the proposed mitigation, habitat creation, enhancement and subsequent management as well as the increase in nesting opportunities it is certain that the proposed development will have a positive impact on nesting birds.

4.2.6 Great Crested Newt

There are records of Great Crested Newts approximately 1.5 km north-west of the development site beyond the town of Wem and there are two ponds within 500m of the site's boundaries, one 130m south-west whilst the other is approximately 350m east. The pond to the south-west of the site was subject to presence / absence surveys in 2014 as part of another proposed development and Great Crested Newt absence was confirmed (information taken from Turnstone Ecology report for planning application 14/03428/OUT). The pond also supports large population of fish meaning that it is unlikely to support Great Crested Newts in the future. The pond to the east of the site is separated from the site by extensive arable fields and is not directly connected to the site via suitable dispersal routes such as hedgerows.

There are no waterbodies on the site and the arable field, which will be affected by the proposals, is considered to be unsuitable for foraging and hibernating Great Crested Newts. Whilst the site's hedgerows are suitable habitats for terrestrial phase animals and animals could disperse across the arable field it is considered due to the lack of local records and absence of Great Crested Newts from the closest pond that they will not be present within the proposed development site.

The development proposal includes a landscaped area with water-attenuation pond which would ultimately enhance the site for amphibians.

4.2.7 Reptiles

There are no records of reptiles from 2 km of the site and habitat suitable for dispersing, hibernating and foraging reptiles is limited to the field boundaries.

Although not extensive, there is suitable reptile habitat that will be affected by the proposals and it is recommended appropriate safe working methods are put in place to ensure no reptiles are harmed. This should include habitat modification of the section of northern boundary hedgerow and field margin to be removed with vegetation cut down to just above ground level and then left for at least 24 hours before completing any groundworks. The groundworks should be carried out when reptiles are usually active (March to October inclusive). Any storage of piles of materials and excavated earth on the site should be kept to a minimum and away from site boundaries to deter reptiles from using them for temporary cover.

The development proposals including the western landscaped area, new eastern hedgerow and improvement to the site's northern hedgerow will result in an increase of optimal reptile habitat.

5 LEGAL PROTECTION

This section briefly describes the legal protection afforded to the protected species referred to in this report. It is for information only and is not intended to be comprehensive or to replace specialised legal advice. It is not intended to replace the text of the legislation, but summarises the salient points.

5.1 Badger

Badger is protected in Britain under the *Protection of Badgers Act 1992* and *Schedule 6 of the Wildlife and Countryside Act 1981* (as amended).

The legislation affords protection to Badgers and Badger setts, and makes it a criminal offence to:

- wilfully kill, injure, take, possess or cruelly ill-treat a Badger, or to attempt to do so;
- interfere with a sett by damaging or destroying it;
- to obstruct access to, or any entrance of, a Badger sett; or
- to disturb a Badger when it is occupying a sett.

5.2 Bats

All species of British bat are protected by *The Wildlife and Countryside Act 1981* (as amended) extended by the *Countryside and Rights of Way Act 2000*. This legislation makes it an offence to:

- intentionally kill, injure or take a bat;
- possess or control a bat;
- intentionally or recklessly damage, destroy or obstruct access to a bat roost; and
- intentionally or recklessly disturb a bat whilst it occupies a bat roost.

Bats are also European Protected Species listed on *Schedule 2 of the Conservation of Habitats and Species Regulations 2010 (SI 2010/490)* under *Regulation 41*. This legislation makes it an offence to:

- deliberately capture, injure or kill a bat;
- deliberately disturb bats in such a way as to be likely to (a) impair their ability to: (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or b), to affect significantly the local distribution or abundance of the species to which they belong; and
- damage or destroy a breeding site or resting place of a bat; and
- possess, control, transport, sell, exchange a bat, or offer a bat for sale or exchange.

All bat roosting sites receive legal protection even when bats are not present.

Where it is necessary to carry out an action that could result in an offence under the *Conservation of Habitats and Species Regulations 2010 (SI 2010/490)* it is possible to apply for a European Protected Species (EPS) licence from Natural England (NE). Three tests must be satisfied before this licence (to permit otherwise prohibited acts) can be issued:

- Regulation 53(2)(e) states that licences may be granted to “preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.”
- Regulation 53(9)(a) states that a licence may not be granted unless “there is no satisfactory alternative”.
- Regulation 53(9) (b) states that a licence cannot be issued unless the action proposed “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

5.3 Dormice

The Dormouse is on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended), and receives full protection under Section 9. This species is also listed as European Protected Species on Schedule 2 of the Conservation of Habitats and Species Regulations 2010 (SI 2010/490) which gives them full protection under Regulation 41. Protection was extended by the Countryside and Rights of Way Act 2000 (the CRoW Act).

Under the above legislation it is an offence to:

- kill, injure or take an individual of such a species;
- possess any part of such species either alive or dead;
- intentionally or recklessly damage, destroy or obstruct access to any place or structure used by such species for shelter, rest, protection or breeding;
- intentionally or recklessly disturb such a species whilst using any place of shelter or protection;
- or
- sell or attempt to sell any such species.

Dormouse is included as a Priority Species in the UK Biodiversity Action Plan (UKBAP) and also as a species of principal importance for the conservation of biological diversity in England under Section 74 of the CRoW Act.

5.4 Nesting Birds

All species of bird are protected under *Section 1* of the *Wildlife and Countryside Act 1981* (as amended). The protection was extended by the CRoW Act.

The legislation makes it an offence to intentionally:

- kill, injure or take any wild bird;
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- take or destroy an egg of any wild bird.

Certain species of bird are listed on *Schedule 1* of the *Wildlife and Countryside Act 1981* (as amended) and receive protection under *Sections 1(4)* and *1(5)* of the Act. The protection was extended by the CRow Act. The legislation confers special penalties where the above mentioned offences are committed for any such bird and also make it an offence to intentionally or recklessly:

- disturb any such bird, whilst building its nest or it is in or near a nest containing dependant young; or
- disturb the dependant young of such a bird.

5.5 Great Crested Newt

Great Crested Newt is listed on *Schedule 5* of the *Wildlife and Countryside Act 1981* (as amended), and receive full protection under *Section 9*. These species are also listed as European Protected Species on *Schedule 2* of the *Conservation of Habitats and Species Regulations 2010 (SI 2010/490)* which gives them full protection under *Regulation 41*. Protection was extended by the *Countryside and Rights of Way Act 2000* (the CRow Act).

Under the above legislation it is an offence to:

- kill, injure or take an individual of such a species;
- possess any part of such species either alive or dead;
- intentionally or recklessly damage, destroy or obstruct access to any place or structure used by such species for shelter, rest, protection or breeding;
- intentionally or recklessly disturb such a species whilst using any place of shelter or protection;
- or
- sell or attempt to sell any such species.

The Great Crested Newt is included as a Priority Species in the UK Biodiversity Action Plan (UKBAP) and also as a species of principal importance for the conservation of biological diversity in England under *Section 74* of the CRow Act.

5.6 Common Reptile Species

Common Lizard, Grass Snake, Slow-worm and Adder are listed under *Schedule 5* of the *Wildlife and Countryside Act 1981* (as amended), in respect of *Section 9(5)* and part of *Section 9(1)*. This protection was extended by the CRow Act.

Under the above legislation it is an offence to:

- intentionally or deliberately kill or injure any individual of such a species; or
- sell or attempt to sell any part of the species alive or dead.