



Shropshire Council Site Allocations and Management of Development (SAMDEV) Plan

Main Modifications consultation

1 June 2015 – 13 July 2015

For Shropshire
Council use

Respondent
no:

Main Modifications Consultation Form

The SAMDev Plan Schedule of Main Modifications includes a series of changes to the published SAMDev Plan. These suggested changes are being consulted on for a period of six weeks. For advice on how to respond to the consultation, and how to fill in this form please see the guidance notes on the Council's SAMDev Plan website at: <http://shropshire.gov.uk/planning-policy/samdev-examination/main-modifications-consultation/>.

Submitting comments:

Please fill in this form and return:

- Via email to: Programme.Officer@shropshire.gov.uk
- By posting to: Daphne Woof - Programme Officer
c/o Planning Policy Team
Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND
- Comments must be received by 5pm on 13 July 2015. **Comments received after this time will not be accepted and will not be considered by the Inspector.**
- Please fill a separate for each Main Modification you are commenting on.
- Please clearly identify which Main Modification your comments refer to using the reference (i.e. MM1, MM2 etc) in the SAMDev Plan Schedule of Main modifications.
- Please do not repeat your previous comments as these have already been considered by the Planning Inspector. **Comments will only be considered that refer to a change as shown in the SAMDev Plan Schedule of Main Modifications.**

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- All comments received on the proposed changes within the time period will be considered by the Planning Inspector as part of the examination of the SAMDev Plan. The Inspector may wish to contact you to discuss your comments and concerns, prior to concluding the formal examination into the Plan.
- The personal information will only be used for purposes related to the consultation and the SAMDev Plan examination. The Council will place all the representations and the names of those who made them on its website, but will not publish personal information such as telephone numbers, emails or private addresses. However other information will be shared with the Planning Inspector.
- The information relating to your comments on the Main Modification (Part B) will be published on the Shropshire Council SAMDev Plan examination webpage.

A) Your details:

1) Who is making this representation?

Name:	Jo Caruth
Organisation (if applicable):	Rescue, The British Archaeological Trust
Address:	
Email:	
Telephone:	

Client's details (only applicable if you are acting as agent on behalf of another person or business)

Name:	
Organisation (if applicable):	
Address:	
Email:	
Telephone:	

B) Your representations: What do you wish to object to/support?

Please use a separate form for each Main Modification you wish to comment on. Only comments relating to a proposed Main Modification will be considered.

- 1) Please give the Main Modification reference your comment relates to.

Main Modification reference - MM: 163

- 2) Do you consider the proposed Main Modification addresses the following issues in relation to the policies concerned?

	Yes	No
Legally compliant	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Positively prepared	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Justified	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Effective	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consistent with national policy	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- 3) If you have answered 'no' to any of the above please specify your reason for objecting below. You should make clear why the Main Modification is either not legally compliant and/or unsound having regard to whether the modification is not: positively prepared; justified; effective; or, not consistent with national policy. Please see guidance notes for explanation of these terms:

MM163 is not legally sound in respect of the legal requirements concerning Scheduled Monuments and their settings. Scheduled monuments are considered to be heritage assets of the highest significance (NPPF, para.132) and are protected by law.

Para. 32 of DCMS policy statement *Scheduled Monuments* (March 2010) states:

“Scheduled monuments are designated in order to secure their legal protection in the national interest, and to secure their long term preservation *in situ* – as far as possible in the state in which they have come down to us.”

“. . . .Consent or clearance for works that would result in the loss of the whole or a material part of a scheduled monument’s significance will only be granted where there is clear justification that:

- they are necessary to secure its long-term conservation (for example, by sustaining the monument in its original use, or if this is not possible, some other appropriate and viable use that is consistent with its conservation); or
- they are necessary in order to deliver substantial and demonstrable cultural, social, economic or environmental benefits that outweigh the negative impact on its significance (for example, by enabling research that increases knowledge and understanding of the past to an extent that is unlikely to be achieved through research elsewhere at a less sensitive site or through less destructive methods).”

NPPF para. 132 advises that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Implicit in these statements is that damage to the significance of a scheduled monument (which includes its setting) may be considered unlawful, although in terms of setting this may not be considered strictly in accordance with the 1979 Act. There is, however, clearly an obligation to give great weight to the conservation of the setting of such heritage assets. This is the obligation in the case of housing development of site OSW004 which would obviously adversely affect the setting of scheduled Old Oswestry Hillfort despite any ‘mitigation’ proposed in Policy S14.1a, since the site would not remain in its present form as part of what is widely understood to be the rural setting of the scheduled hillfort.

MM163 is not positively prepared owing to its lack of sustainability in terms of the protection required for heritage assets of the highest significance, including their settings (cf. NPPF paras. 132 and 133). The Council has not demonstrated that Site OSW004 is vitally necessary to meet its objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is practical to do so consistently with the presumption in favour of sustainable development.

MM163 is not justified. Housing development on Site OSW004 would not meet the caveats relating to *significance* listed in para. 32 of DCMS policy statement *Scheduled Monuments* (March 2010) quoted above.

Paragraph 46 of DCMS policy statement *Scheduled Monuments* states:

“In terms of impact of development on the setting of a scheduled monument, securing the preservation of the monument ‘within an appropriate setting’ as required by national policy is solely a matter for the planning system.”

Here is stated the obligation on the part of the LPA to ensure that an appropriate setting for Old Oswestry Hillfort is retained and this obligation is not met in the continued inclusion of site OSW004 in the SAMDev Plan; nor would it be met via the standard English Heritage/Historic England conditions for development included within the amendments now proposed under the Policy S14.1a – which are both contradictory and inconsistent with the sensitivity of the site, lying as it does within the immediate setting of Old Oswestry Hillfort in which the present rural environment is critical.

Clearly, a reasonable alternative site or other sites for housing could be put forward by the LPA.

MM163 is not effective or consistent with National Policy because:

The policy refers to "high quality design and appropriate integration within the sensitive historic landscape". However both principles are highly subjective, and impossible to implement impartially without prior exposition. What exactly is "high quality" design? How is "appropriate integration" to be achieved and under what guiding principles? A master plan for the development of the site is insufficient, as from this point the LPA will be in a reactive situation, unable to outline appropriate guiding principles. In order to properly define and manage the principles of high quality design and appropriate integration set out in the policy, a Supplementary Planning Guidance defining the terms and clearly setting out the parameters of these principles **must** be in place. Such an SPG must be produced by the planning authority and must be in place prior to any development master plan being submitted, in order for this policy to be appropriately realised.

If an SPG is **not** required, it must be contended that the policy would be impossible to implement in its present form, due to the ambiguity of the statements.

Design Principle 1 indicates that "*To inform the layout of the site, full archaeological assessment will be required to enhance the understanding and interpretation of the significance of the Hillfort and its wider setting.*" This principle is contrary to the principles of assessment of significance set out within the NPPF (paragraph 129). It is inappropriate and also contrary to national planning policy, to allocate this site for development within the SAMDev document, without the archaeological significance of the site having already been established through appropriate assessment and evaluation. Given the obvious significance of the site, and the numerous examples of archaeological discoveries made in the environs of similar sites across the country, it is entirely possible that the site of OSW004 will contain remains of national significance that are either related to the Hillfort, or important in their own right, that would be both worthy of preservation, and of a quality that precludes the development of the site entirely. The viability of the allocation of this site within the SAMDev is threatened by the lack of appropriate investigation and it should be removed, as at present the location is potentially unsustainable.

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Design Principle 2 requires long-distance views to and from the Hillfort be conserved. This principle is at odds with the requirement for screening set out within Design Principle 5. How can a view be maintained if there is screening in between? Conservation of views cannot be maintained if development proceeds on this site, so therefore this principle is impossible to implement.

Design Principle 4 suggests that layout, height, form, massing and roofscape design should be of a nature designed to minimise landscape impact. However, subsequent to the completion of development, such principles will entirely be overridden by national permitted development legislation, the implementation of which over time will work against such considerations. This Design Principle is ineffective and unsustainable without the further inclusion within this document of a recommendation and commitment to implement an appropriate Article 4 Direction (removal of permitted development rights) across any development that takes place within the area currently defined as OSW004. This will ensure that further piecemeal development within the area can be governed by the same design principle that guided the original design and construction programme.

Design Principle 5 details a requirement for a landscape buffer, with appropriate vegetation and screening. However, the landscape surrounding this monument is of an open character, with views across large areas of landscape both to, and from, the Hillfort. A requirement for "screening" will introduce an alien element into this open landscape, one that is incompatible with the existing landscape character. It is therefore almost impossible to conceive of a situation whereby screening of this nature could be judged to be acceptable or appropriate within the wider setting of the monument. In addition, this Design Principle repeats the reference to the subjective idea of "high quality" design, which has been highlighted previously as being unsustainable without further definition.

Design Principle 7 indicates that "*The opportunity should be taken to consider measures to improve the access, interpretation and enjoyment of the Hillfort and the wider historic landscape*". What specific measures do the Inspector and the design principle envisage? Developer contributions to the investigation and maintenance of the Hillfort? Or the opportunity for the LPA to build such measures into the proposed masterplan for the site? Without further definition of what this "opportunity" might be, and whose responsibility it is to "consider", the principle is un-implementable. There must be a requirement to build definition of this principle into the SPG recommended previously, however it is simply impossible to envisage any situation whatsoever whereby a development on this particular site could improve anyone's enjoyment of the Hillfort or the wider historic landscape. The principle is itself a nonsense.

The implementation of MM163 would not enable the delivery of sustainable development in accordance with the relevant policies (132 and 133) in the National Planning Policy Framework, which state that that the greatest weight should be placed on the significance of such heritage assets as scheduled monuments and that substantial harm to their settings – which would be the upshot of further development within the setting of the Hillfort – 'should be wholly exceptional'. NPPF para. 133 requires that such an exception may be made only in the event that it would be offset by 'substantial public benefits' or that a number of strict conditions would *together* apply. No case has been made by the Council for such benefits or conditions potentially being fulfilled in respect of Site OSW004 should its development for housing be permitted.

Continue on a separate sheet if necessary

- 4) Please set out what change(s) you consider necessary to make the SAMDev Main Modification legally compliant and/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.**

Taking these points into account, it should surely be concluded that development on this site is unsustainable. Even if the points raised here could be addressed (many cannot), others would surely arise in their place. It is not possible to reconcile the heritage concerns with the principle of sustainable development and we continue to maintain that OSW004 should be removed from the SAMDev as a consequence.

Continue on a separate sheet if necessary.

Please note you should cover all the information, evidence and supporting information necessary to justify the representation and the suggested change. After this stage, further submissions will only be accepted at the request of the Inspector.

You must return this form by 5pm on Monday 13 July 2015.

You can e-mail it to:

Programme.officer@shropshire.gov.uk

Or return by post to: Daphne Woof - Programme Officer, c/o Planning Policy Team, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

The Programme Officer will acknowledge receipt of comments submitted by e-mail.