



For Shropshire
Council use

Respondent
no:

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

**Pre-Submission Draft (Final Plan)
17 March 2014 – 28 April 2014**

Representations Form

Please note you can also make representations to the SAMDev Pre-Submission Draft using our online form via:

www.shropshire.gov.uk/samdev

This is a formal consultation on the legal compliance and soundness of the Site Allocations and Management of Development (SAMDev) Plan before it is submitted to the Secretary of State for examination by an Independent Planning Inspector. For advice on how to respond to the consultation and fill in this representations form please see the guidance notes available on the Council's website at www.shropshire.gov.uk/samdev.

Your details: Who is making this representation?

Name: Kate	Clarke
Organisation (if applicable):	Hands Off Old Oswestry Hillfort (HOOOH)
Address:	
Email:	

If you are acting as an Agent, please use the following box to tell us who you are acting for:

Name: N/A	
Organisation (if applicable):	
Address:	
Email:	
Telephone:	

Your Representations

Please note, you must use a separate form for each representation you wish to make.

(Please refer to the accompanying Guidance Notes on Making Representations when completing this section)

In the box below please give the policy, paragraph or section of the Policies Map your representation relates to:

Schedule S14 1a. Allocation of Land off Whittington Road OSW004

Is your representation in support or objection? (please tick as appropriate)

Support	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Object	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

In respect of your representation on the policy, paragraph or section of the Policies Map, do you consider the SAMDev Plan is:

Legally compliant	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Sound	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

If your representation considers the SAMDev Plan is not sound, please say whether this is because it is not (*Please tick all that apply*):

Positively prepared	<input checked="" type="checkbox"/>
Justified	<input checked="" type="checkbox"/>
Effective	<input checked="" type="checkbox"/>
Consistent with National Policy	<input checked="" type="checkbox"/>

In the box below please specify your reason for supporting or objecting.

If you are objecting, you should make clear why the document is unsound having regard to the issues of 'legal compliance' or whether the document is not positively prepared, justified, effective or not consistent with national policy (Continue on a separate sheet if necessary).

Legal compliance/duty to cooperate

The SAMDev plan in respect to OSW004 is not legally compliant and does not meet the duty to cooperate for the following reasons.

1. Steps have not been taken to fully demonstrate the significance of Old Oswestry's setting, incorporating OSW004, and its intrinsic value to the significance of the hillfort which is a scheduled ancient monument. Sufficient robust evidence has not been collated on the potential damage to the setting and, consequently, the hillfort's heritage significance from building 117 houses at OSW004.

2. The SAMDev consultation in relation to site OSW004 does not fulfil the 'Statement of Community Involvement for Shropshire' Adopted version 2011 for the following reasons.

2a. It has not complied with five of the guiding principles listed in section 2, 'Guiding Principles of Effective Community Involvement', as follows:

- i) 'Engage in a timely and constructive manner with key stakeholders, including representative bodies such as Parish and Town Councils as appropriate'.

In its finalisation of the SAMDev plan, Shropshire Council has not taken constructive steps to respond to or make documented account of the following decisions/requests by Oswestry Town Council made during its extended consultation on SAMDev and specifically the hillfort sites OSW004 (and previously OSW002/OSW003, not now included):

- Oswestry Town Council's reversal of its decision on OSW004, to oppose the development, communicated to Shropshire Council in a letter dated 26 February 2014.
- Its request for a commitment from Shropshire Council to develop, post SAMDev, planning guidance for the hillfort and its surrounds for the future, looking to the historical and archaeological protection and promotion of the site.
- Its request, as a condition of its original SAMDev response (28 January 2014), asking Shropshire Council for an independent review of the site promoter's Heritage Impact Assessment (HIA) to ensure it is NPPF compliant, following criticism by respected and well qualified heritage authorities including RESCUE (The British Archaeological Trust).

- ii) 'Use flexible, appropriate, transparent and efficient methods to inform and engage communities in the planning process'.

In arranging an additional seminar/site visit (17 October 2013) for stakeholder consultation, plus public drop-in exhibition, on the original hillfort sites (OSW002/OSW003/OSW004), Shropshire Council failed to ensure the presence of English Heritage at the event to give expert impartial advice on heritage issues while giving undue emphasis to the site promoters' case and materials supporting development, including a revised Oldport Masterplan document.

Similar exposure was not given to the campaigners' (HOOOH) arguments against, creating an unbalanced forum for a consultation event primarily

intended to inform local councillor and resident views on the merits and demerits of the hillfort development.

- iii) 'Ensure consultation is proportionate and relevant to the needs of local communities':

Given the overwhelming opposition to OSW004 (and previously also OSW002/OSW003), the 'relevance' of consultation in respect to OSW004 should have included a balanced and detailed level of supporting evidence on the heritage issues and impacts/benefits of development. While an additional seminar was organised in Oswestry (see point (ii) above), it did not provide a comprehensive, balanced and impartial presentation of heritage, cultural & environmental issues, but was weighted to the case for development to a level of detail (ie Oldport Masterplan document) beyond that which would be expected for a strategic planning process. In providing an unbalanced and partial view of issues in relation to one of the most opposed allocations in SAMDev and a nationally important heritage site, we dispute that consultation on OSW004 has been relevant to the needs of the community. To the contrary, it constructively created the perception that there is little planning basis for community opposition to the development, which is not 'relevant to' but 'prejudiced against' public needs and effective community engagement.

- iv) 'Provide information on how people's views have been handled, including reporting back to communities on a regular basis through agreed means.'

Shropshire Council has provided no formal, direct and constructive response to the following documentation submitted by campaign group (HOOOH) as part of the extended period for SAMDev consultation granted to Oswestry Town Council:

-HOOOH's 17 point objections document;

-Dr George Nash's Heritage Report (December 2013). Shropshire Council has given no formal response on the contents and application of this report in its heritage assessment of OSW004.

-Dr Ben Edwards' Landscape & Visual Impact Assessment report (February 2014). Shropshire Council has given no formal response on the contents and application of this report in its heritage assessment of OSW004.

v) 'Recognise the value and diversity of groups, organisations and individuals'

The evidence given in i) to iv) above shows that insufficient value has been placed on ratified decisions of the town council and counter evidence presented by the residents' campaign group, especially when contrasted with the exposure given to the site promoters' documents and supporting case for development.

2b. Most of the points given in (2a) above provide evidence that the SAMDev consultation in relation to OSW004 has failed to comply with the principle of Continuous Engagement described here:

Table 4.3: Methods of Engaging Communities: Continuous Engagement

'The Council are committed to ensuring continuous engagement throughout the preparation of planning policy documents. This approach emphasises the 'open door' policy approach to community involvement and recognises that the preparation of policy documents is a fluid process.'

In particular, while the 'open door' policy has permitted an extended period of consultation over OSW004 as one of the hillfort sites and the admission of further local responses and documents in evidence, there is no sign that the consultation representations made by Oswestry Town Council, HOOOH and new expert reports have made a material difference to the judgment regarding OSW004 in comparison to the weight given to the evidence of the site promoter.

Shropshire Council's written response to HOOOH's questions at the SAMDev council ratification meeting of 27 February 2014 reveals the imbalance of consideration given to the promoter's evidence over campaigner evidence, as in these extracts: *(On the promoter's evidence)* 'It is for the promoters to submit such information as they wish – the Heritage Impact Assessment provided has been produced by a heritage professional having regard to the relevant English Heritage guidance on the setting of heritage assets, and this has been useful in helping the Council to assess the proposals.....' *(On the campaigner's professionally produced reports)* 'The Council is happy to receive evidential material submitted by interested parties at any time, but has no comments on the report [Dr Ben Edwards' LVIA] at this stage.'

This suggests that greater weight has been given to the promoter's evidence, without a test of its NPPF compliance, and less regard, if any, has been paid to the balancing evidence of campaigners' reports.

2c. The SAMDev process has ignored or constructively underplayed 'red flag' issues, including evidence in the Council's own planning/policy documents, relating to development in the setting of the hillfort during the Pre-Production stage.

As itemised in Table 4.1: DPD Stages and Community Involvement DPD Stage
Community involvement and consultation, this stage ‘involves the authority gathering evidence and establishing relevant planning issues for the area. The authority will seek input from relevant interested organisations and individuals.’

During this phase, Shropshire Council did not take sufficient steps to gather appropriate independent evidence regarding the heritage, archaeological, environmental and ecological significance of the monument’s setting and hinterland and the potential impact of development within its environs. Nor did it give sufficient credence to its own planning documentation and existing expert reports on Old Oswestry’s heritage value, including a strong steer away from northward development intended to protect the environmental, heritage and tourism values of this area of the town. These include Reid and Marriott’s Conservation Management Plan (2010); the Archaeological Survey and Report by Nicky Smith (2010); the Shropshire Core Strategy; and the Shropshire Strategic Housing Land Availability Assessment (July 2009: Appendix 6 by Baker Associates–Planning Consultants).

The latter states: ‘Overall, the northern part of the town is very constrained and there are no opportunities to accommodate development without significant harm to the landscape and setting of valued environmental assets, as well as the setting of and approaches to the northern edge of the town.’

In line with this, the current development boundary for the north of Oswestry should remain and continue to serve as the limit of northwards development, stemming any further encroachment of Oswestry’s urban mass on the setting of the hillfort, and on views to and from the monument.’

Shropshire Council’s lack of reference to the above existing heritage and planning documents, its over-reliance on the site promoter’s evidence (the robustness of which is queried), and the apparent exclusion of stakeholder evidence would suggest that assessment of the suitability of sites, including OSW004, at Oldport Farm has been biased to removing barriers to development.

3. The inclusion of OSW004 does not fulfil ‘Shropshire’s Community Strategy 2010-2020: A Flourishing Shropshire’

This states: ‘Sustainable Community Strategy – Brings together the shared vision and priorities of local people, organisations, networks and sectors within an area.’

Clearly conflicting with this is the overwhelming opposition to OSW004 from the public, Oswestry Town Council, Selattyn & Gobowen Parish Council, national heritage organisations, in addition to English Heritage’s statement that it may not approve a planning application for OSW004 at development management stage. Housing development on OSW004 is not a shared vision nor is it a priority of the local community and key stakeholders.

Rather, the very clear community vision and priority is to protect the setting of Old Oswestry and an important national heritage site from development that would reduce its heritage value and the quality of experiencing it for local residents, tourists and future generations.

The Strategy also defines 'sustainable' as 'Development that meets the needs of the present without compromising the ability of future generations to meet their own needs (Brundtland).'

As outlined above, the community's over-riding need expressed through consultation is the protection of Old Oswestry from any encroaching development of its present green farmstead setting. This need is not met by OSW004, nor can it be argued that OSW004 meets a need for housing that can only be fulfilled by building by the hillfort when other viable sites are available and housing targets are arbitrary. In contrast, the community's stated need to protect the hillfort in the context of development proposed by it can only be met by removing OSW004 from SAMDev, since the hillfort as a heritage asset is uniquely fixed in the landscape, and its cultural value and contribution to local distinctiveness and the tourism economy cannot be replaced or substituted in another location.

Furthermore, the need of the community to protect Old Oswestry and its setting is wholly based on preserving its historical legacy for the future, and to sustain opportunities for future generations to meet their needs from preserved heritage and historical landscape rather than remove that potential through what would in this context be defined as unsustainable development on OSW004.

SOUNDNESS

Not positively prepared

The SAMDev plan in respect to OSW004 has not been positively prepared for the following reasons.

- a. The promoter for OSW004 has not produced adequate reports and assessments of the heritage, landscape, ecological and environmental impacts of the proposed development. This is despite previous heritage reports advising extended protection for the hillfort's setting, numerous HER listings and past surveys suggesting the underlying multi-phase archaeology of its hinterland, plus the acknowledged national importance of Old Oswestry.
- b. The promoter's Heritage Impact Assessment has been criticised for being flawed and in places non NPPF compliant, underplaying the importance of setting and being selective in its assessment of impact on views to and from the hillfort.

c. Despite requests, Shropshire Council did not publicise on its website the heritage statement produced by a qualified archaeologist on behalf of the campaign group alongside the site promoter's heritage impact assessment. This shows partiality by the Council in favour of the promoter's evidence over academic reports by heritage experts that would have brought objective balance to evidence, accessible to the public, for assessing crucial heritage issues relating to OSW004.

d. No mitigating evidence has been given regarding the significant traffic impact from a 117 dwelling estate on routes and junctions in this area (Whittington Road/Gobowen Road/Unicorn Road) already subject to heavy traffic congestion, exacerbated by being on school run routes to the town's three main primary schools.

e. OSW004 does not fulfil the sustainability principle stated in 'Shropshire's Community Strategy 2010-2020: A Flourishing Shropshire'

This defines 'sustainable' as 'Development that meets the needs of the present without compromising the ability of future generations to meet their own needs (Brundtland).'

There is overwhelming opposition to OSW004 from residents and the general public (10,000+ petition signatories/online supporters), Oswestry Town Council, Selattyn & Gobowen Parish Council, heritage organisations, in addition to English Heritage's statement that it may not approve a planning application.

This opposition is based on the community's express need to protect Old Oswestry from any encroaching development of its present green farmstead setting. This need is not met by OSW004, nor can it be argued that OSW004 meets a need for housing that can only be fulfilled by building by the hillfort when other viable sites are available and housing targets are arbitrary. In contrast, the community's stated need to protect the hillfort in relation to development proposed by it can only be met by removing OSW004 from SAMDev, since the hillfort as a heritage asset is uniquely fixed in the landscape, and its cultural value and contribution to local distinctiveness and the tourism economy cannot be replaced or substituted in another location.

Furthermore, the need of the community to protect Old Oswestry and its setting is wholly based on preserving its historical legacy for the future, and to sustain opportunities for future generations to meet their needs from preserved heritage and historical landscape rather than remove that potential through what would in this context be defined as unsustainable development on OSW004.

Not justified

The SAMDev plan in respect to OSW004 is not justified for the following reasons.

a. Shropshire Council has plainly ignored submitted professional evidence concerning the impact of the proposed OSW004 site.

The plan is not based upon proportionate evidence. Shropshire Council has taken an extremely partial approach to professionally produced evidence.

Evidence was submitted in the form of a Landscape and Visual Impact Assessment by Dr Benjamin Edwards of Manchester Metropolitan University on 14 February 2014. The report was interpreted to Landscape and Visual Impact Assessment Guidelines (2013).

In terms of Visual Impact, the report stated: “The sensitivity of this viewpoint and the receptors was defined as high. The magnitude of the visual impact on these receptors (demonstrated through figures 1-3) was correspondingly defined as large. As a result, the significance of the visual impact of the proposed development is described as major. In visual terms, the nature of these effects is termed direct and permanent.”

Dr Edwards' closing remarks were as follows: “National planning guidance is clear in its definition of the importance of the ‘setting’ of heritage assets. Given the national importance of the heritage landscape affected by the proposed development, and the significance of the impact on this landscape and its visual setting, it is recommended that the development should not proceed in its current proposed form. Considerable change should be made to the form of the proposal and the strategies for mitigating impact. Proper consideration should be given to the significance of heritage assets, and a more informed appreciation of the definition of ‘setting’ is required. The findings of this document concur with Nash (2013) in that an earlier Heritage Impact Assessment (di Figuerido 2013) did not follow appropriate guidance or established methodology, either in its execution, or in arriving at a conclusion of minimal landscape and visual impact.”

Shropshire Council gave no formal response on the contents and application of the report in its heritage assessment of OSW004 which constitutes evidence of serious partiality.

b. Shropshire Council gave significant weight to a widely criticised Heritage Impact Assessment report by Peter de Figueiredo produced on behalf of the site promoter for OSW004.

The report's compliance was called into question by RESCUE (The British Archaeological Trust) for the following reasons:

1. It contains no HER information.
2. Essential below-ground potential and contextual data is completely absent.
3. It gives no consideration to views of Old Oswestry from 15 other hillforts.
4. The report's author is not an archaeologist.
5. RESCUE concludes: "The Heritage Impact Assessment is inadequate, and further consideration - by a properly qualified archaeological organisation or individual - is required."

c. Shropshire Council has produced no formal response to the Heritage Impact Assessment produced by Dr George Nash.

Shropshire Council gave no formal response on the contents and application of the report in its heritage assessment of OSW004. This is further evidence of serious partiality.

d. Shropshire Council has disregarded its own Oswestry Housing Sites Assessment.

On page 126 in the *Inherent Landscape Character* section, this states about OSW004: "The site has little/no capacity for housing due to its relationship with existing industrial and commercial development to the south and west, the site's role as part of the wider setting of Old Oswestry Hillfort, views to and from the fort and extending the edge of the settlement north in a highly visible location."

e. OSW004 no longer justified on its own

The housing scheme at OSW004 was originally proposed, assessed and justified as part of a co-ordinated development with OSW002 and OSW003 which have not been included in the final SAMDev plan. This invalidates the proposal for OSW004.

f. No comparative evidence of economic returns from OSW004 developed/undeveloped

Given choices in the SAMDev plan have to be backed by robust research and facts, Shropshire Council has provided no evidence demonstrating the comparative economic viability and long-term returns for building houses on OSW004 compared to not building and conserving the hillfort's setting for potential future heritage and tourism development.

g. Community views ignored

There is overwhelming opposition to OSW004, evidenced by 10,000 plus petition signatories/supporters, Oswestry Town Council, Selattyn & Gobowen Parish Council, heritage organisations, in addition to English Heritage's statement that it may not

approve a planning application for housing on the site. This opposition, the result of consultation, demonstrates there is no community mandate for OSW004, yet it has not been given proportionate weight in SAMDev and the decision to include OSW004.

h. No response to evidence submitted

Shropshire Council has provided no formal, direct and constructive response to the following documentation submitted by campaign group (HOOOH):

-HOOOH's 17 point objections document;

-Dr George Nash's Heritage Report (December 2013). Shropshire Council has given no formal response on the contents and application of this report in its heritage assessment of OSW004.

-Dr Ben Edwards' Landscape & Visual Impact Assessment report (February 2014). Shropshire Council has given no formal response on the contents and application of this report in its heritage assessment of OSW004.

i. No response to Town Council ratified requests

In its finalisation of the SAMDev plan, Shropshire Council has not taken constructive steps to respond to or make documented account of the following decisions/requests by Oswestry Town Council regarding the hillfort sites OSW004 (and previously OSW002/OSW003, now dropped):

a. Oswestry Town Council's reversal of decision (26 February 2014) on OSW004 – to oppose it.

b. Its request for a commitment from Shropshire Council to develop, post SAMDev, planning guidance for the hillfort and its surrounds for the future, looking to the historical and archaeological protection and promotion of the site.

c. Its request, as a condition of its original SAMDev response (28 January 2014), asking Shropshire Council for an independent review of the site promoter's Heritage Impact Assessment (HIA) to ensure it is NPPF compliant, following criticism by respected and well qualified heritage authorities including RESCUE.

There is no reference to these three materially significant responses by a key stakeholder within the SAMDev draft plan as part of the evidence base of stakeholder responses towards OSW004.

j. Decision based on flawed heritage evidence

In its SAMDev Plan Pre-Submission Draft, Shropshire Council states that the heritage assessment is key to determining proposals that will affect heritage assets, as here:

MD13. 1. 'Ensuring that proposals which are likely to either directly or indirectly affect the significance of a heritage asset, including its setting, are accompanied by a Heritage Assessment.'

Shropshire Council's procedure with heritage assessment evidence supporting OSW004 is flawed because:

- It has failed to ensure that the key heritage assessment (the site promoter's) being used to inform its decision on OSW004 is sound, industry compliant and impartial;
- It has failed to give appropriate credence to industry standard heritage/landscape impact reports submitted by other stakeholders during the process;
- It has not acted on Oswestry Town Council's request as a condition of its SAMDev response for an independent review of the site promoter's heritage impact assessment.

k. Contravenes Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro, 27.X.2005)

This states in Article 9 – Sustainable use of the cultural heritage - that:

'To sustain the cultural heritage, the Parties undertake to:

A: promote respect for the integrity of the cultural heritage by ensuring that decisions about change include an understanding of the cultural values involved;'

By not adequately accounting for the heritage significance of the hillfort and not formally admitting the heritage impact reports of campaigners, as well as undervaluing the overwhelming opposition of the public based on heritage damage and cultural loss, Shropshire Council has failed to comply with this principle.

l. Loss of archaeology potential at nationally significant heritage site

Shropshire Council has previously commissioned or cooperated with expert archaeology, conservation & heritage management reports (Reid and Marriott's Conservation Management Plan (2010); the Archaeological Survey and Report by Nicky Smith (2010)) underlining the archaeological and heritage importance of Old Oswestry. These called for the extension of protection of its wider setting to preserve its archaeological value and reserves and for future development of its heritage significance.

The allocation of housing within Old Oswestry's setting as part of strategic county planning cannot be justified when all expert evidence calls for the extended conservation of the hillfort landscape surrounds as an archaeological resource and to maximise its value as a heritage asset.

Strategically, the Council's own evidence indicates that land at OSW004 has high heritage value that should exclude its allocation for housing and meaning that OSW004 cannot be justified.

This is supported by the Shropshire Strategic Housing Land Availability Assessment (July 2009: Appendix 6 by Baker Associates–Planning Consultants) which states:

‘Overall, the northern part of the town is very constrained and there are no opportunities to accommodate development without significant harm to the landscape and setting of valued environmental assets, as well as the setting of and approaches to the northern edge of the town.’

In line with this, the current development boundary for the north of Oswestry should remain and continue to serve as the limit of northwards development, stemming any further encroachment of Oswestry's urban mass on the setting of the hillfort, and on views to and from the monument.’

Not effective

The SAMDev plan in respect to OSW004 is not effective for the following reasons.

a.OSW004 is not deliverable due to national planning barriers

Shropshire Council cannot demonstrate that there are no national planning barriers to delivery of OSW004 as several are identified in relation to the NPPF – see section ‘Not consistent with National Policy’.

b. Delivery partners not signed up to OSW004

Shropshire Council cannot demonstrate that all delivery partners are signed up to development at OSW004 because Oswestry Town Council and Selattyn & Gobowen Parish Council are opposed and English Heritage has stated it may not approve development on that site.

c. Reasonable alternatives have not been considered

Shropshire Council has not sufficiently explored reasonable alternatives for housing, specifically brownfield sites, which would better address the quantum of development and overall spatial strategy. English Heritage has stated that it is concerned over the density and quantum of development at OSW004 given that the reduction of housing numbers (from 125 to 117) does not reflect the reduction in spatial area which has been (approximately) halved.

d. Shropshire Council has not demonstrated clear understanding of cultural assets

Shropshire Council has not demonstrated that it has fulfilled its planning principle of working to 'a strategy for the historic environment based on a clear understanding of the cultural assets in the plan area, including assets most at risk.'

It is justifying a development that would permanently damage one of the County's most important heritage assets based on an inadequate heritage report while refusing to consider other reports which are counter to intent.

e. Prospect of opposition to OSW004 at development management and planning application stage

The high level of public opposition to development at OSW004, and opposition from Oswestry Town Council as well as the potential for objection by English Heritage, would be a significant consideration in respect to a planning application at OSW004. This is a major detractor to the deliverability and sustainability of the site, and clearly renders SAMDev unsound.

f. Planning application for OSW004 would not be NPPF compliant

NPPF criteria would produce sufficient basis for refusal of a planning application for OSW004, raising serious questions over its deliverability.

g. OSW004 conflicts with policies in the SAMDev Plan Pre-Submission Draft

MD13. 4.139. 'Heritage assets are a finite, non-renewable resource and great care must therefore be taken when determining applications which result in a loss of significance, either partial or total. Proposals adversely affecting either the significance or setting of designated or non-designated heritage assets will therefore be rejected unless the harm to the significance of the asset is outweighed by the public benefits of the proposal and there are no satisfactory alternatives. In making this decision the significance of the asset, its level of importance, the degree of impact and opportunities for a viable beneficial use of the asset will be taken into account.'

The lack of community mandate for OSW004 and the view of residents and stakeholders that conservation of the hillfort setting provides far greater public benefits compared to housing development, means that OSW004 does not comply with the above.

The community's overwhelming view is that encroaching development within Old Oswestry's green farmstead setting will be extremely harmful and therefore unsustainable. Additionally, it cannot be argued that OSW004 meets a need for housing that can only be fulfilled by building by the hillfort when other viable sites are available and housing targets are arbitrary. In contrast, the community's stated need to protect the hillfort in the context of development proposed by it can only

be met by removing OSW004 from SAMDev, since the hillfort as a heritage asset is uniquely fixed in the landscape, and its cultural value and contribution to local distinctiveness and the tourism economy cannot be replaced or substituted in another location.

h. OSW004 conflicts with Shropshire Council's own Core Strategy

Development at OSW004 does not comply with a number of policy principles of Shropshire's Core Strategy 2010 including:

- Strategic objectives No 11, 3.7: Ensure that the character, quality and diversity of Shropshire's built, natural and historic environment is protected, enhanced and, where possible, restored, in a way that respects landscape character, biodiversity, heritage values, and local distinctiveness, and contributes to wider environmental networks.

The building of a high density housing estate of 117 dwellings at OSW004, introducing significant light, noise and environmental pollution within the setting of a major heritage asset and having negative impacts on views to and from it, would be detrimental to this.

- Policy CS6, 4.82: There are a substantial number of heritage assets in Shropshire, which are of significance because of their historic, archaeological, architectural or artistic interest. Such assets require careful consideration and management in accordance with national guidance where change is proposed.

The building of a high density housing estate of 117 dwellings at OSW004, introducing significant light, noise and environmental pollution within the setting of a major heritage asset and having negative impacts on views to and from it, would be detrimental to this.

- Policy CS17: (Ensure development)... Protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.

The building of a high density housing estate of 117 dwellings at OSW004, introducing significant light, noise and environmental pollution within the setting of a major heritage asset and having negative impacts on views to and from it, would be detrimental to this.

From The Spatial Vision – Shropshire in 2026:

- ‘..Shropshire will have raised its profile.....as a tourism destination, capitalising on its unique landscape and heritage assets without damaging

their value for residents and visitors.’

- ‘The character, quality and diversity of Shropshire’s natural and historic environment, the County’s greatest asset, will have been protected, restored and enhanced.’
- ‘In Shropshire, we need to plan for....the protection and enhancement of our natural and historic environment, its character, quality and diversity.’

The building of a high density housing estate of 117 dwellings at OSW004, introducing significant light, noise and environmental pollution within the setting of a major heritage asset and having negative impacts on views to and from it, would be detrimental to this.

i. Flaw in 5 year supply justification for OSW004

Shropshire Council has stated the need to meet 5 year supply as a prime justification for including OSW004 in SAMDev. However, by its own definition in Shropshire’s Five Year Housing Land Supply statement, OSW004 does not meet 5 year criteria which excludes SAMDev sites (section 3.24) ‘with significant unresolved issues’. Since there is no definitive list classifying what constitutes such issues, then it is highly reasonable to accept that ‘no community mandate’ for OSW004 constitutes a ‘significant unresolved issue’. This invalidates Shropshire Council’s justification for including OSW004 on the basis of 5 year supply.

Not Consistent with National Policy

SAMDev in respect to OSW004 is not consistent with National Policy. Proposed development on OSW004 does not comply with a number of policy points in the NPPF, within section 12 ‘Conserving and enhancing the historic environment’, making its inclusion in SAMDev unsound. These points are:

- a) **Paragraph 126.** Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
 - the desirability of new development making a positive contribution to local character and distinctiveness; and
 - opportunities to draw on the contribution made by the historic environment to the character of a place.

The building of a high density housing estate of 117 dwellings at OSW004 does not enhance the significance of the heritage asset; is not consistent with its conservation but could set the precedent for subsequent development that would further erode the setting and its significance; the introduction of contemporary housing structures would detrimentally alter, and are out of context with, the historic farmstead setting of Old Oswestry that is perceived by the public to add value to its experience and significance, so would not add to local distinctiveness nor enhance the contribution made by the historic environment.

- b) **Paragraph 128.** In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Shropshire Council has not complied with this, having based its assessment of heritage impact and significance on a flawed heritage report by an insufficiently qualified person commissioned by the site promoter which fails to include HER (historic environment record) information. If sites included in SAMDev presuppose their viability for development and the prospect of successful planning applications, this should have been undertaken in qualifying OSW004 for inclusion in SAMDev.

- c) **Paragraph 129.** Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Shropshire Council has not been sufficiently robust or objective in soliciting appropriate evidence of the heritage value and significance of Old Oswestry's setting, ignoring requests for an independent review of the widely criticised key heritage assessment supporting its decision to include OSW004 in SAMDev.

- d) **Paragraph 130.** Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into

account in any decision.

The argument that existing residential and industrial development along Whittington Road adjacent to OSW004 reduces the perceived impact on setting of OSW004 should not be admissible, as existing development could be viewed as historical damage to the setting, and so should have no bearing on or should not devalue the heritage significance of land at OSW004.

- e) **Paragraph 131.** In determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.

The building of a high density housing estate of 117 dwellings at OSW004 would not enhance the significance of the heritage asset but detract from it; it would not put the land to a viable use consistent with its conservation as it would destroy the heritage setting; it would not make a positive contribution to local character and distinctiveness as public consultation has shown the community values conservation of the heritage asset over housing in this area.

- f) **Paragraph 132.** When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

The proposal to build a high density housing estate of 117 dwellings at OSW004, within the setting of a nationally significant scheduled monument, does not give appropriate weight to the importance of Old Oswestry. Shropshire Council has not given clear and convincing justification for OSW004 – its main imperative to build is to meet 5 year housing supply that could be met from other sites from across the County or from having arranged a more sustainable rate of housing delivery from Oswestry's Sustainable Urban Extension where only 63 dwellings out of a total 900 capacity have been negotiated towards 5 year supply. Meeting 5 year housing supply and transient housing targets for the SAMDev plan period to 2026 do not constitute 'wholly exceptional' circumstances to justify damaging Old Oswestry's setting.

g) **Paragraph 133.** Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss....

...and **Paragraph 134.** Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Given Shropshire Council's heritage assessment evidence is not sufficiently robust and is mainly based on a flawed report by the site promoter, it cannot disprove substantial harm or prove less than substantial harm from OSW004. In either case, the lack of community mandate for OSW004 and the view of residents and stakeholders that conservation of the hillfort setting will provide greater public benefits and is, therefore, the more sustainable choice compared to housing development, means that OSW004 does not comply with the NPPF.

h) **Paragraph 135.** The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Current heritage evidence considered by the Council includes a flawed heritage assessment by the site promoter assessing impacts as minor, while industry standard reports submitted by campaigners assess visual and landscape impacts in particular as major. In addition, English Heritage has cautioned it may not approve any development at OSW004. The inconsistencies and uncertainty of these heritage judgments does not permit Shropshire Council to demonstrate it is making a balanced judgment over the scale of harm to the significance of the hillfort.

i) **Paragraph 137.** Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

The proposal to build a high density housing estate of 117 dwellings at OSW004, within the setting of a nationally significant scheduled monument, neither preserves those elements of the setting that make a positive contribution to or better reveal the significance of the asset. Instead, development will result in the loss of setting and detract from the significance of the hillfort.

j) **Paragraph 139.** Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

Since full and compliant archaeological and landscape reports have not been undertaken, Shropshire Council cannot assume that the setting of Old Oswestry is not less significant than the earthwork, so it must proceed on the premise that the hillfort's setting should be subject to the same statutory protection as the monument which is a designated scheduled monument.

k) **Paragraph 141.** Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

Despite requests, Shropshire Council did not publicise on its website the heritage statement (Dr George Nash, December 2014) produced by a qualified archaeologist on behalf of the campaign group alongside the site promoter's heritage impact assessment. Nor did the Council publicise the Landscape & Visual Impact Assessment by Dr Ben Edwards (February 2014). This shows partiality by the Council towards the promoter's evidence over academic reports by heritage experts that would have brought objective balance to evidence, accessible to the public, for assessing crucial heritage issues relating to OSW004. This meant that available industry-compliant reports concerning the significance of the historic environment were not made accessible to the public.

ENDS

Please use the box below to explain the changes you think should be made to the SAMDev Plan in order to make it legally compliant or sound? You should explain your suggested revisions to the policy, paragraph or section of the Policies Map, and why this change would make the plan legally compliant or sound. Please be as precise as possible (Continue on a separate sheet if necessary)

The site allocation OSW004 should be removed from the Plan.

Please be sure that you have provided all the information necessary to support your representations and any changes you are proposing. After this stage you will not be able to make any further representations about the SAMDev Plan to Shropshire Council. Any further submissions will only be possible at the invitation of the Inspector conducting the examination, who may seek additional information about the issues he/she has identified.

Do you consider it necessary to attend and give evidence at the examination?

Yes, I wish to give evidence about my representation at the examination.



No, I wish to pursue my representations through this written representation.



If you wish to attend the examination, please explain why you think this is necessary in the box below:

As a representative of HOOOH, I would like to be present to hear proceedings over the OSW004 proposal affecting this hugely important heritage site and back up the arguments made in this response, if required, on behalf of over 10,000 objectors.

Do you wish to be notified of any of the following? Please tick all that apply. We will contact you using the details you have given above.

When the SAMDev Plan has been submitted for examination	<input checked="" type="checkbox"/>
When the Inspector's Report is published	<input checked="" type="checkbox"/>
When the SAMDev Plan is adopted	<input checked="" type="checkbox"/>

Please return this form by 5pm on Monday 28 April 2014

You can e-mail it to:

Planning.policy@shropshire.gov.uk

Or return it to: Planning Policy Team, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Please note, we will acknowledge receipt of representations made by e-mail.

Data Protection Act 1998 and Freedom of Information Act 2000

Representations cannot be treated in confidence. Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires copies of all representations to be made publically available. 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. By submitting a representation on the Pre-Submission SAMDev Plan you confirm that you agree to this.