

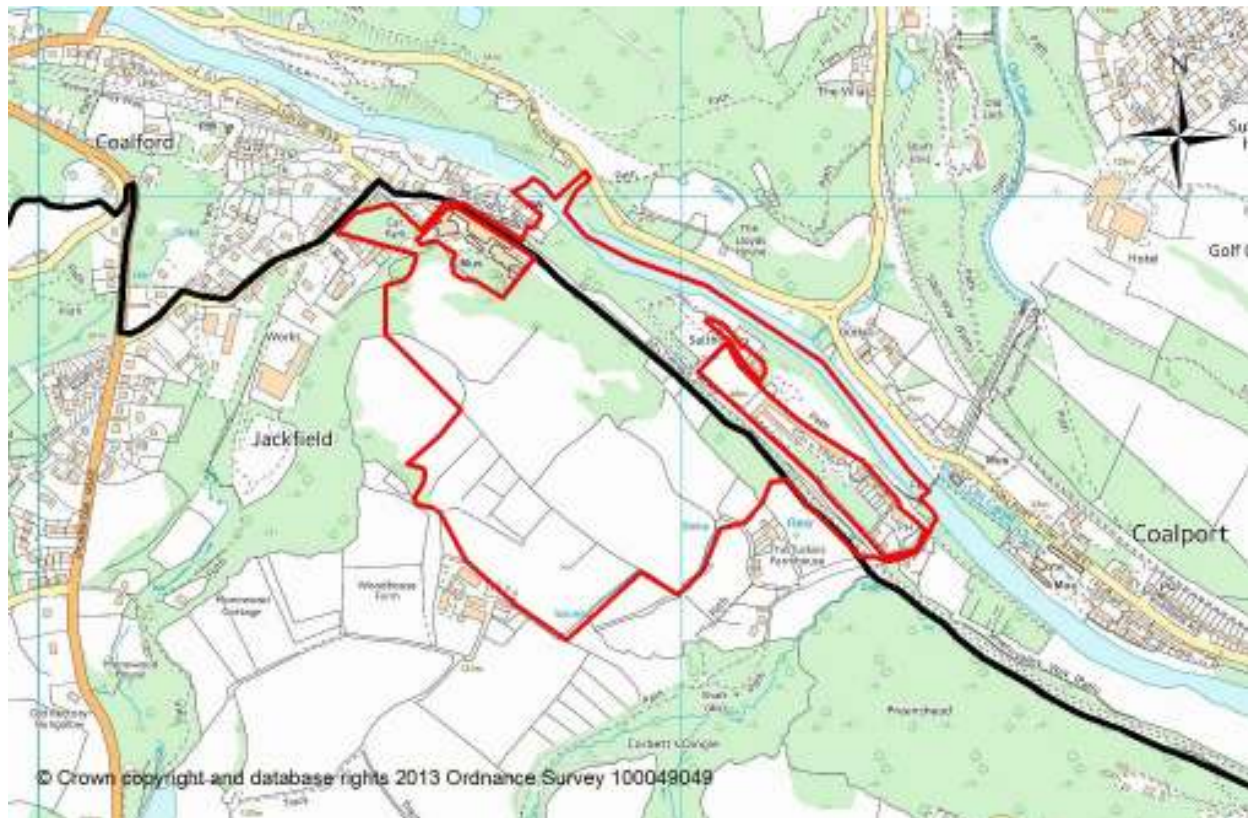
## Development Management Report

Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 13/03696/FUL	<b><u>Parish:</u></b> Broseley
<b><u>Proposal:</u></b> Stabilisation of 350m length of hillside/river bank to the southside; realignment and improvements to roadways, footpaths/cycleways and accesses; creation of car parking; demolition of existing wall; clearing of trees/vegetation; re-grading of land including landscaping works; remedial works to mining voids/mineshfts	
<b><u>Site Address:</u></b> Land South And South East Of Church Road Jackfield Shropshire	
<b><u>Applicant:</u></b> Telford And Wrekin Council	
<b><u>Case Officer:</u></b> Kelvin Hall	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>



**Recommendation:**

(i) That in accordance with Section 101(1) of the Local Government Act 1972 the South Planning Committee delegates Shropshire Council's powers to determine cross-boundary planning application ref. 13/03696/FUL relating to the Jackfield stabilisation scheme to Telford & Wrekin Council.

(ii) That Telford & Wrekin Council are requested to have full regard to the consultation responses, representations and recommendations set out in this report in reaching its decision on application ref. 13/03696/FUL.

**REPORT****1.0 BACKGROUND**

1.1 Telford and Wrekin Council (T&WC) is proposing to undertake a major land stabilisation scheme at Jackfield, on land lying partly within Shropshire Council's administrative area and partly within that of T&WC. The area has suffered in the past from landslips affecting the River Severn, properties, the railway (now dismantled) and local highways. Slips have occurred in the 1880's, 1952 and more recently in 1983. This movement is still ongoing and there is concern that a major sudden slippage could cause further disruption to infrastructure, along with partial or complete blockage of the river with severe upstream flooding.

1.2 Salthouse Road is the only main highway along the river bank and serves some 100 residents and several businesses. These include occupants of the Maws Centre, the Boat public house and residents along Ferry Road. Should a further major landslip occur then this part of the Jackfield community would be severed and unable to be accessed by road or served by emergency vehicles.

1.3 The main area of the stabilisation scheme covers an area approximately 350 metres long by 250 metres between the River Severn and extending south-west up the hillside. The scheme involves the installation of closely spaced vertical piles arranged in nominally parallel rows up the hillside. The final landform to be created would be a gentle gradient down to the river, infilling and removing the numerous low and high spots that exist due to past slumping and slippage. At the riverbank, a stone revetted slope is proposed that will prevent further erosion and cutting away of the bank.

1.4 Following stabilisation works, the wider scheme would involve improvements to vehicular access through the reconstruction of Salthouse Road, new junctions to serve properties and businesses, as well as improvements to existing footpaths and the creation of new footpaths in the area. The scheme also provides for extensive reinstatement and restoration of the affected area including habitat creation and tree planting

1.5 Telford and Wrekin Council has been successful in obtaining direct funding for the project from the Department for Communities & Local Government (CLG). It is understood that this is in the region of £12 million. One of the conditions of funding is that the budget from CLG is to be spent by the end of March 2016. The scale and complexity of the project are such that the main construction works are

anticipated to require two full summer seasons for works in and adjacent to the river. Consequently, the main works must commence around April 2014. However, substantial site preparation or enabling works need to be carried out over the Autumn/Winter 2013/14, prior to the main construction contract. These enabling works will involve vegetation clearance (ahead of next Spring's bird nesting season), utility diversions (11Kv electricity cables and BT telephone lines) and drilling and grouting to stabilise mineshafts within the site and shallow mine-workings beneath the proposed piling corridors. None of these enabling works activities can be started until DCLG have approved release of the funding which will not be granted until planning consent is secured.

1.6 A failure to meet any of the above programme deadlines would result in the project being unable to be completed on time and the funding offer from DCLG will be withdrawn. Therefore, if the scheme is to go ahead, it is imperative that planning permission is in place by the end of October 2013.

## 2.0 **Decision making procedures for cross-boundary planning applications**

2.1 The area of the proposed works straddles land either side of the boundary between Shropshire Council and T&WC boundary. Two identical planning applications have therefore been submitted for the whole scheme. One has been submitted to T&WC for determination (ref. TWC/2013/0618); the other has been submitted to Shropshire Council for determination (ref. 13/03696/FUL).

2.2 In the absence of alternative administrative or statutory arrangements, a planning application would ordinarily be determined by the LPA in whose administrative area the development is proposed to be carried out. In the case of cross-boundary applications, this can lead to two LPAs making individual determinations, and imposing different conditions on the permissions. This is highly undesirable in terms of seeking a coordinated and consistent approach to delivering development. It is also contrary to the overall tenor of Government guidance which encourages local authorities to work together on planning issues.

2.3 There are critical deadlines that need to be met in order that the external funding for the project is secured. These include the need to ensure that planning permission is in place by the end of October 2013. It is therefore imperative that any potential planning delays are avoided if the scheme is to progress. In view of this, it is considered that it would be appropriate for Shropshire Council to delegate its decision taking responsibility on application 13/03696/FUL to T&WC.

2.4 The legal powers for doing this are set out in Section 101(1) of the Local Government Act 1972 which authorises a local authority to arrange for the discharge of any of its functions by any other local authority. This provision can be used to allow Shropshire Council to delegate its powers to make a decision on this cross-boundary planning application to T&WC.

2.5 The effect of this would be that T&WC would then determine both the application submitted directly to it and the application that has been submitted to Shropshire Council. This would facilitate a consistent and streamlined approach to the decision-making process. It is anticipated that a decision on both applications would be made by T&WC's Planning Committee, at its meeting on 16<sup>th</sup> October.

**3.0 Consultation and publicity**

3.1 Consultation and publicity in respect of the application submitted to Shropshire has been undertaken in accordance with statutory procedures. Publicity has included the erection of eight site notices along the site boundary, and a press notice. In addition, more than 50 residential properties and businesses in the local area have been directly notified of the application. Formal consultation with a wide range of statutory and non-statutory bodies has been undertaken, including Broseley Town Council. A number of representations have been received in relation to the proposals, as summarised in Appendix 1 below. However at the time of writing this report, the consultation period was yet to expire.

3.2 Officers have been liaising with T&WC Officers in relation to the consultation responses and representations. Officers will make formal comments to T&WC in due course. These comments will recommend that specific conditions are imposed on any decision notice, based upon consultation responses and local concerns. A summary of these conditions is included in Appendix 2. Further conditions may be added to reflect any additional comments received during the consultation period.

**4.0 Public representations**

4.1 A number of suggested conditions have been put forward by local residents, principally in relation to the temporary haul road and contractor's compound that is proposed to be formed in order to gain access to the area of stabilisation works. This part of the site lies close to residential properties in Jackfield. These suggested conditions include requests that:

- delivery of some materials is made via the school and Salthouse Road;
- the haul road would be fenced and gated, with a maximum 5 metres width and a defined route;
- the haul road and compound is restored to woodland;
- a parking area is provided to prevent traffic hazards;
- reinstatement of temporary areas within 3 months of completion of the scheme;
- progress meetings are held with residents.

4.2 Some details of the siting, construction, use and reinstatement of the haul road and compound have been submitted as part of the planning application. It is considered that it is appropriate that the detailed matters of these elements of the stabilisation scheme are dealt with by planning condition. It should be noted that the suggested conditions set out in Appendix 2 include the need to submit for approval: a Construction Method Statement; a Tree Protection Plan; a detailed specification of the temporary haul road; and tree and shrub planting details

4.3 T&WC has confirmed that they anticipate that the series of public drop-in sessions that have been held to date would continue throughout the construction period, and that additional public liaison would be carried out.

4.4 Residents have also requested that any delegation of authority for granting planning permission should only apply to the access road and compound and not to any other area of the Tree Protection Area and other land within Shropshire Council's jurisdiction. However it should be noted that Member's authorisation is sought to delegate the decision-making on the planning application to T&WC. The

planning application includes both the area of main stabilisation works and the contractor's access to the works area.

- 4.5 In view of the issues raised in relation to the planning application Members are recommended to request that T&WC have full regard to the consultation responses, representations and recommendations set out in this report in reaching its decision on application ref. 13/03696/FUL.

## **5.0 Monitoring and enforcement:**

- 5.1 A decision to delegate the decision-making power on the cross-boundary planning application would not impact upon the statutory powers of Shropshire Council in relation to enforcement of the planning permission. The power to enforce against any breaches of planning conditions that occur within the Shropshire area would remain with Shropshire Council.

## **6.0 CONCLUSION**

- 6.1 The Jackfield stabilisation scheme is a cross-boundary engineering project that is being led by Telford & Wrekin Council (T&WC). Implementation of the project will provide significant public benefits in terms of reducing the risk of further land slippage in the area, the most recent of which occurred in 1983.

- 6.2 The project is being funded by the Department for Communities & Local Government (CLG). One of the conditions for funding is that the budget is spent by the end of March 2016. Given the scale and complexity of the scheme this requires that planning permission is in place by the end of October 2013.

- 6.3 As the scheme is a cross-boundary proposal, duplicate planning applications have been submitted to both Shropshire Council and T&WC for determination. In order to avoid unnecessary delays, it is considered that it would be appropriate for Shropshire Council to delegate its decision-making powers on its application to T&WC. This would allow T&WC to determine these duplicate applications in a consistent manner.

- 6.4 Officers at the two Councils have been liaising to deal with the various cross-boundary issues that the project raises, including concerns of local residents. Recommendations on appropriate conditions to be imposed on any planning permission will be made to T&WC, to ensure that these are taken fully into account in the decision making process.

## **7. Risk Assessment and Opportunities Appraisal**

### **7.1 Risk Management**

The risk involved in delegating Shropshire Council's development control decision making function on this cross-boundary application to Telford and Wrekin Council is that the decision taken may not be fully consistent with a decision that would have otherwise been made by Shropshire Council. Nevertheless T&WC, in making a decision on the planning application, will be required to determine the application in accordance with the Development Plans in force and take into account other material considerations, including representations made by consultees and local residents, including those of Shropshire Council.

This risk needs to be balanced against the risk of planning delay that may occur if delegation to T&WC is not agreed, and a separate planning decision on the proposal is made by each planning authority. Should any delay occur, this may result in the scheme, which has significant public benefits, not going ahead.

## 7.2 Human Rights

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

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

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

## 7.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 8. Financial Implications

The decision to delegate the decision making powers on planning application ref. 13/03696/FUL to Telford & Wrekin Council would minimise any planning delays which may prevent the Jackfield land stabilisation scheme from going ahead. Should the scheme not be undertaken, the existing risks of land slippage in the area would remain, and such slippage may result in severe upstream flooding and impacts upon infrastructure in the local area.

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

The application refs. 13/03696/FUL and TWC/2013/0618 and supporting information and consultation responses.

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Jean Jones

**Appendices**

APPENDIX 1 – Summary of consultee responses and representations

APPENDIX 2 – Recommended conditions to be attached to any decision notice

**APPENDIX 1 – Summary of consultation responses and representations received in relation to application 13/03696/FUL**

**SC Trees** Revised plans have been submitted specifically to review the arrangements regarding the temporary site access and contractor's compound.

This review came about following local concern regarding the impact of the proposed works on the area of woodland located roughly between the junction of Calcutts Road and Salthouse Road. That woodland is protected under a Tree Preservation Order and lies entirely within the Shropshire Council (SC) boundary. Other trees within the site are protected because it lies within a conservation area, which amongst other things serves to protect all trees greater than 75mm diameter (when measured at a height of 1.5m above ground level).

The revised plans show that the site compound is to be moved from within the area of 'TPOd' woodland (as was originally planned), to a location directly south-west of the Tile Museum. The revised plans still require, however, the creation of a 5m wide access route through the 'TPOd' woodland, between Calcutts Road and the Tile Museum car park. Neal Rushton's letter (referenced above) explains why it is necessary to create this new route through the woodland and why existing alternative roads are unsuitable.

Overall the revised layout will result in slightly greater loss of trees and scrub than the original application, although these losses will be temporary and can be mitigated by ground reinstatement and appropriate replacement planting. There will also be less ecological impact on the 'TPOd' woodland and less visual impact for those properties on Calcutts Road opposite the site and those in the adjacent development known as The Woodlands.

On balance, therefore, no objection is raised to the proposed scheme, subject to suitable precautions being taken to protect potentially vulnerable retained trees and scrub from damage during implementation of any approved development. In this respect there does not appear to be a detailed design for the access route through the woodland, or for the means of removal and subsequent restoration of the route, following completion of the scheme. It will also be necessary to implement the revised mitigation measures illustrated in Figure D: Environmental Master Plan, included as Appendix 1 to the Addendum to the Environmental Statement.

It is recommended that pre-commencement conditions and other conditions are attached to any approval for this application [see Appendix 1] to cover the following:

- Submission and approval of a Tree Protection Plan (TPP)
- Submission and approval of detailed design of the temporary access route through the woodland subject to a Tree Preservation Order
- Implementation of the scheme in accordance with the approved TPP and access route details
- Submission and approval of tree and shrub planting details to mitigate for the loss of those lost to the development
- Implementation of the approved tree planting scheme

**SC Ecology Recommendation:**

- Updated badger survey and method for dealing with any setts affected by the proposals are required to comply with The Badger Act 1992

- An Environmental Management Plan is required for pollution control
- Add amphibians to the Reptile Mitigation Strategy

Conditions should be imposed (see Appendix 2).

The main ecological issues in the Shropshire section of the stabilisation area are:

Badgers: Badger surveys were carried out by Middlemarch, however additional active setts have been recently found that are in the working area. There is the potential for works to impact directly or indirectly on these setts and any badgers that they may support. At the time of writing an updated Badger Report is awaited to provide information on how close the works will be to the setts and whether they will require closure under licence. A Method Statement for badgers may be required, to be secured under condition. Further advice can be provided on receipt of this additional information.

Bats: Trees with potential as bat roosts were surveyed (except in the “Additional Area”). Two summer bat roosts were found in trees in the centre of the landslip area. Therefore the works associated with these trees must be controlled by a European Protected Species Development Licence, to be issued by Natural England once planning permission has been granted. A method statement will be required to issue a licence and one has been submitted. For the trees with confirmed roosts and identified trees with potential for bat roosts, where these require removal, these will need to be ‘soft felled’ under the supervision of a licenced bat worker between November 2013 and February 2014.

Mitigation for loss of bat roosting areas will be by erection of bat boxes within areas of retained woodland outside the proposed works area in October 2013. Details of their positions are shown on submitted plans. It is also important that key bat commuting routes as discussed in the Bat Activity Transect Survey Report RT-MME-113756-01 are maintained. In cases where this is impossible, the landscaping scheme should provide unlit areas of planting to replace bat foraging and commuting routes. The Ecological Mitigation Strategy Rev A provides a bat lighting plan, with installation of bat commuting screens and ‘dark corridors’ to be maintained during construction.

Reptiles and amphibians: Reptile surveys found slow worms and low numbers of grass snakes in the woodland areas within Shropshire. Translocation is required to avoid breaching the Wildlife and Countryside Act 1981 (as amended) protection for common reptiles. The main reptile translocation period is when reptiles are not hibernating and for this scheme to take place needed to be completed by the end of September 2013. Works will also be required to enhance the reptile receptor site and then manage it for 5 years. The Reptile Mitigation Strategy RT-MME-114921 Rev A August 2013 is being followed for the translocation exercise and should be conditioned on any consent.

Great crested newt surveys were carried out in April and May 2013 with negative results in all ponds surveyed. With the large number of ponds in the area it would be appropriate to include amphibians in the proposals for translocations and during the clearance works.

Notable plants and grassland restoration: Proposals are put forward to translocate notable flora to undisturbed woodland areas. No legally protected plants were found during the surveys.

On the grassland restoration proposals set out in the Ecological Mitigation Strategy Rev A, section 3.4, rather than use a seed mix, a more locally appropriate species-rich grassland result can be obtained by using 'green hay' from a local species-rich grassland. We would like consideration given to this, with details to be approved under conditions.

**Birds:** The proposed vegetation clearance, which is required to allow construction works to take place, will result in the loss of semi-natural broad-leaved woodland and scrub habitats which are currently used by breeding birds. As well as replacement planting, 75 nest boxes are proposed to be installed within the areas of retained woodland.

**Habitats:** The River Severn County Wildlife Site (this section within Telford and Wrekin) is at risk of water pollution from the scheme. Corbetts Dingle County Wildlife Site (within Shropshire) is immediately to the east of the application. Provided measures to control pollution such as dust are implemented, no adverse effect is predicted on this non-statutory wildlife site. An Environmental Management Plan is proposed to control all pollution and should be conditioned.

Parts of the woodland are within the Ecological network where Policy CS17 applies. Enhancement to public access and restoration of biodiversity following the works are proposed. These are anticipated to enhance the ecological network function of the area in the longer term.

**Landscape** The Environmental Statement considers the effect of the project on landscape and visual impact to be *Large Adverse* in the short term, improving in the long term to *Negligible*. I am not able to comment on this issue but it is clearly a major concern.

**SC Drainage** No objection to the stabilisation of the hillside and river bank as:

- the River Severn is a Main River and the Environment Agency have been consulted by Telford and Wrekin Council;
- the realignment and improvements to existing roadways, footpaths and accesses and creation of new car park have been approved by Telford and Wrekin Council;
- no comment on the amended compound location.

**SC Archaeology** The planning application straddles the boundary of TWC and Shropshire Council, and includes development within Shropshire's boundary in which there are a number of heritage assets that may be affected directly or indirectly during the proposed works. An Archaeological Desk Based Assessment (Ironbridge Archaeological Series No. 326) produced in support of the application takes the form of a Heritage Assessment, identifying and quantifying heritage assets that may be affected by the proposals, assessing the impact and providing recommendations for mitigation. It also addresses the issue of setting in respect of designated and un-designated heritage assets.

**Recommendation::** In view of the above and in line with National Planning Policy Framework (NPPF), a programme of archaeological work should be made a condition of any planning permission for the proposed development. An appropriate condition of any such consent would be:

No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) that reflects all the

recommendations for mitigation produced in the Archaeological Desk Based Assessment with additional watching brief requirements during the Treatment of river bank phase. The written scheme shall be approved in writing by the Shropshire Council's Historic Environment Team prior to the commencement of works.

The applicant may wish to contact the Senior Archaeological Projects Officer, Shropshire Council, who can advise on and, if required, issue a brief for the WSI. It is important that Shropshire Council is kept fully informed of the works programme and any archaeological mitigation that is required in order that they be given access to monitor the archaeological response.

**SC Highways** No objection in principle to the proposed development. The majority of proposed Highway improvement works fall within the boundary of Telford and Wrekin; therefore it is recommended that the following comments are considered in association with comments submitted by Telford and Wrekin's Highways Development Engineer.

Access: In accordance with submitted the Design and Access Statement and Drawing No.B1894500/P/04 Rev A, a proposed 5 metre wide access road is proposed off Calcutts Road to provide access to the site compound. Calcutts Road is currently the maintenance responsibly of Shropshire Council. Clarification is sought with regard to the proposed status of the access road and proposed construction and visibility splays.

The applicant will be required to submit an application to Shropshire Council under Section 184 Highways Act 1980 to create a new access on to the Highway.

Stopping Up: In accordance with submitted Drawing B1894500/H/08 it is recommended that any existing Highway currently within Shropshire Council responsibility that is proposed to be diverted or Stopped Up should be submitted via an application under Section 247 Town and Country Planning Act 1990.

Construction and associated permission to work on existing Highway: Prior to commencement of the proposed works it is recommended that a Construction Management Plan is submitted to clarify the proposed construction phasing and the delivery of materials to site.

Prior to commencement of any works it is recommended that the applicant contacts Shropshire Councils Co-ordination Manager to obtain the necessary permission to work on Highway maintained by Shropshire Council.

#### Additional comments

It is assumed that any stabilisation works within the Shropshire Boundary will be subject to a joint application for funding by the applicant, and that Shropshire Councils Highway Authority will not be expected to contribute to the cost of the improvement works.

#### Conditions

It is recommended that conditions are imposed (see Appendix 2).

**SC Rights of Way** Footpath UN19 Broseley will be temporarily affected by the works and this department is discussing the requirements for temporary closures with the applicants.

**SC Conservation** The proposals would clearly affect the setting of several listed buildings within Shropshire Council's boundary as well as the wider World Heritage Site(WHS). This consultation response only relates to those within the Shropshire Council boundary. The setting of these buildings has changed dramatically over the past 100 years both in terms of the loss of Salthouses and other built areas as well as the increase in tree cover. (photos from the early C20 show the Gorge with very few trees). As such it is felt that the benefits of the proposals outweigh any harm to the setting of the listed buildings or the character of the WHS.

One aspect of the setting which should be considered is the appreciation and enjoyment of any listed buildings during the works. It is felt that the normal planning conditions relating to noise/dust etc, which would be reasonably expected of any other similar permission should be attached to any consent given for the proposals.

**APPENDIX 2 – List of recommended conditions to be imposed on any decision notice relating to application TWC/2013/0618 and 13/03696/FUL**Trees

- Submission and approval of a Tree Protection Plan (TPP), to protect trees and scrub that contribute to the character and appearance of the area from damage
- Installation of approved tree protection measures to the written satisfaction of the LPA
- Submission and approval of detailed specification of the temporary access route through the woodland subject to a Tree Preservation Order, to show how damage to trees and scrub shall be minimised, and how and when the temporary route is to be removed and reinstated
- Implementation of the scheme in accordance with the approved TPP and access route details
- Submission and approval of tree and shrub planting details to mitigate for the loss of those lost to the development
- Implementation of the approved tree planting scheme

Highways:

- Submission and approval of details of means of access from Calcutts Road, including layout, construction and sightlines prior to development taking place, to ensure a satisfactory means of access to the highway
- Implementation of approved details before use hereby approved is commenced.
- Submission and approval of a Construction Method Statement prior to development taking place, to provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works. Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.
- Adherence to Statement throughout the construction period

Ecology (items to be received are in bold):

- **Badger Method Statement required**
- Bat Method Statement - Document 2 to cover tree felling and installation of bat boxes
- Bat box locations in Middlemarch Environmental Ltd Drawing Number C114922-02-01
- Bat lighting scheme as per Drawing number C114965-01-02 within the Ecological Mitigation Strategy RT-MME-114965-01 Rev A
- Reptile Mitigation Strategy RT-MME-114921 Rev A – **amphibians to be added to the strategy**
- Translocation of notable woodland plants as per Phase 2 botanical survey recommendations and Middlemarch Environmental letter dated 6<sup>th</sup> September 2013
- Bird boxes as per Middlemarch Environmental Ltd Drawing C114965-01-03
- Japanese knotweed dealt with as per method statement
- New habitat creation as per Moore Environment Drawing B1894500/ENV/EIA/ES/Fig D Rev 1
- **Environmental Management Plan to control pollution required**
- Fish protection strategy (Telford)
- Follow recommendations in Otter report (Telford)

Archaeology:

- Submission and approval of a Written Scheme of Investigation (WSI) that reflects all the recommendations for mitigation in the Archaeological Desk Based Assessment with additional watching brief requirements
- Implementation of a programme of archaeological work in accordance with the WSI prior to development commencing