

INFORMATION RECEIVED SINCE PREPARATION OF REPORT

Application number TWC/2015/1003
Site address Land east of Kestrel Close/Beechfields Way, Newport, Shropshire
Proposal Outline application to include access for residential development for up to 170 dwellings with open space following demolition of 14 and 15 Kestrel Close
Recommendation Outline Refuse

The non-determination report in the agenda for Land east of Kestrel Close/Beechfields Way for 170 dwellings TWC/2015/1003 is unfortunately a duplication of the report for the adjacent Site off Plough Farm Nursery, Plough Lane for 110 dwellings TWC/2015/1024.

Below is the correct report for Land east of Kestrel Close/Beechfields Way for 170 dwellings TWC/2015/1003.

INTRODUCTION

An outline planning application for the erection of approximately 170 dwellings was submitted to the council in October 2015. Following the consultation period the local planning authority identified a number of issues with the submission and officers concluded that the application would not be acceptable in its submitted form. The National Planning Policy Framework states that local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area and as such the applicant was provided with an opportunity to try and overcome a number of those issues. Shortly before the end of the 13 week statutory period within which time the local planning authority should seek to determine applications the applicant advised that they were going to submit an appeal on the grounds of non-determination rather than submit any amended details to the Council.

The applicant (now the appellant) has now submitted an appeal and the proposal will be considered by the Planning Inspectorate at a Public Inquiry later this year. The purpose of this report is to present the application to Members of the Planning Committee, provide an officer recommendation in respect of the application and provide Planning Committee with the opportunity to determine the Council's position at the Public Inquiry.

1. PROPOSAL

- 1.1 This is an outline proposal for the demolition of Nos. 14 and 15 Kestrel Close and for the erection of approximately 170 dwellings together with open space. The means of access to the site was included within the application with the remaining matters of detail (appearance, landscaping, layout and scale) reserved for subsequent approval. A masterplan was submitted in support of the application that seeks to demonstrate how the quantity of development proposed could fit on the site.
- 1.2 The proposed access to the site would be via a roundabout that would link Kestrel Close and Beechfields Way. Nos. 14 and 15 Kestrel Close would be demolished to

provide a link road between the proposed roundabout and the site. No other vehicular access points, including the use of Plough Lane, have been proposed.

- 1.3 An indicative layout has been submitted in support of the application that shows how the site could be laid out. With regard to the potential scale of the development there is a lack of conformity between the supporting documentation in that the design and access statement refers to the development being predominantly two storeys and that an element of two and a half and three storey properties may be used. It also states that the majority of properties would be detached or semi-detached with an element of smaller terraced units and apartments. Whereas the submitted landscape and visual impact assessment states that the whole of the development would be two storeys detached and semi-detached houses.
- 1.4 No information has been provided to show how the proposed site levels would relate to the existing levels. The design and access statement advises that the levels across the site would be respected however the geotechnical and geoenvironmental site assessment assumes that some degree of re-profiling / cut and fill would be required in order to form suitable development platforms.
- 1.5 The Masterplan shows that one of the existing veteran Oak trees would be retained and that an area of open space would be provided to the south of the site that would include play space and drainage features.

2. SITE AND SURROUNDINGS:

- 2.1 Newport is a historic market town that is located approximately 11km to the north east of the centre of Telford and approximately 17km to the south west of Stafford. It is linked to both Telford and Stafford by the A518 and the A41 provides a north/south link to Chester and Wolverhampton. The site is located at the northern edge of Newport and is outside of the existing built up area of the town (as defined on the Wrekin Local Plan proposals map) and it is therefore within the rural area.
- 2.2 The site is currently agricultural land of good (grade 3a) and moderate (grade 3b) quality. The NPPF states that land in grades 1, 2 and 3a constitute the best and most versatile agricultural land and the information submitted in support of the application states that 48% of the site is grade 3a.
- 2.3 The site slopes down from north to south and there is a change in levels between the highest and lowest points of the site of 15 metres. The site is open with minimal tree cover. The Arboricultural Impact Assessment submitted with the application identifies six individual trees across the site, seventeen groups of trees and three hedgerows. Two of the individual trees are veteran Oak trees, one of which is in excess of three hundred years old. Both of the trees are protected by tree preservation orders. The remainder of the trees and hedgerows are located to the boundaries of the site.
- 2.4 There are existing houses within Beechfields Way and Kestrel Close to the west of the site that either back of face side on to the site. A narrow track (Plough Lane)

runs along the northern boundary and there is further open agricultural land on the opposite side of Plough Lane. Plough Lane links into an existing footpath that runs around the eastern boundary of the site, beyond which is a landscaped embankment that runs down to the A41. That footpath links into a public right of way that runs along the Shropshire Union Canal to the south of the site. There is an open field and a play area to the south west of the site that is linked to Beechfields Way.

- 2.5 The emerging Telford & Wrekin Local Plan includes the site within the built up area of Newport in order to also allocate the site as being part of the Green Network.

3. RELEVANT PLANNING HISTORY:

3.1 Planning Applications:

- W89/0936: Residential development of land fronting Forton Road/Plough Lane. Refused: 03/01/1990.
- TWC/2015/1024: Outline application for the erection of approximately 110 dwellings with open space on the site of Plough Lane Nursery, Plough Lane. An appeal against non-determination has also been submitted in respect of this application.

4. PLANNING POLICY CONTEXT:

- 4.1 National Planning Policy Framework (the NPPF) – the NPPF is not the development plan for Telford and Wrekin but it is a material consideration in this case because all of the borough's development plan policies have to be viewed in the light of this more recent national guidance.

- Section 6: Delivering a wide choice of high quality homes,
- Section 7: Requiring good design,
- Section 11: Conserving and enhancing the natural environment

4.2 Core Strategy policies

- CS1: Homes
- CS6: Newport
- CS7: Rural Area
- CS9: Accessibility and Social Inclusion
- CS11: Open Space
- CS12: Natural Environment
- CS13: Environmental Resources
- CS15: Urban Design

4.3 Saved Wrekin Local Plan policies

- UD2: Design Criteria
- UD4: Landscape Design
- H9: Location of New Housing
- H10: Scale of Development
- H23: Affordable Housing
- OL6: Open Land

- OL11: Woodland and Trees
- OL12: Open Land and Landscape – contributions from new development
- OL13: Maintenance of Open Space
- LR6: Developers contributions to outdoor recreational open space provision within residential developments
- T4: Development Principles
- T22: Planning Obligations

4.4 Telford & Wrekin Local Plan (Publication Version)

4.4.1 The Telford & Wrekin Local Plan (Publication Version) is an emerging local plan and is not the development plan for the purposes of determining planning applications. Government advice in the NPPF states that decision-takers may give weight to relevant policies in emerging local plans according to:

- the stage of preparation of the plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

4.4.2 Officers consider that the Telford & Wrekin Local Plan (Publication Version) has been prepared on the basis of up to date evidence and having regard to the NPPF. It has gone through two rounds of consultation and exhibition and is at an advanced state of preparation although it has not yet been the subject of public examination. Accordingly, Members are advised to give the document limited weight at the present time. In the event of any appeal against refusal, the weight to be given to the document will be reviewed in accordance with the NPPF guidance set out above.

- SP2: Newport
- SP4: Presumption in favour of sustainable development
- HO1: Housing requirement
- HO2: Housing site allocations
- NE1: Biodiversity and geodiversity
- NE2: Trees, hedgerows and woodlands
- NE4: Provision of public open space
- NE6: Green Network
- C1: Promoting alternatives to the car
- C3: Impact of development on highways
- C4: Design of roads and streets
- BE1: Design Criteria
- ER12: Flood Risk Management

5. **SUMMARY OF CONSULTATION RESPONSES:**

Standard consultation responses

5.1 Newport Town Council: Object. Concerns are raised regarding the impact on the road network, access and manoeuvrability for emergency vehicles and the impact on

the green network. The Telford & Wrekin Local Plan (Publication Version) should carry extensive weight and there are over 1000 dwellings with planning permission in Newport. The borough has a 5 year housing land supply and no new site allocations should be made in Newport until sites with consent are developed. The proposed access is wholly inappropriate and would be a disaster. There is a lack of footpaths in the vicinity of the site. There are limited public transport links. The site is proposed as green network and provides a buffer between the A41 and the urban landscape of Newport. The site is a green lung for birds, wildlife and biodiversity. The canal is a significant feature and in part is classed a SSSI. Newport has a shortage of informal recreational space and consideration should be given to the protection of the oak tree.

- 5.2 Newport and District Civic Society: Object. Agree with the conclusions of the Council's Ecologist and Arboriculturalist. The land is proposed as green network in the Telford & Wrekin Local Plan and the application should be refused to enable the Inspector to consider the designation as part of the examination of the Local Plan. The borough has an 8.2 year housing land supply. The volume of houses approved and under construction in the area has placed pressures on health and education provision; water, power and sewage etc and this has not been addressed.
- 5.3 Environment Agency: No objection
- 5.4 Shropshire Council Historic Environment Archaeology Service: Comment: The site is bounded to the east by the Newport Branch of Birmingham and Liverpool Junction Canal, a heritage asset. There should be no determination of the application until the archaeological evaluation has been satisfactorily completed and a report has been submitted to the Local Planning Authority
- 5.5 Shropshire Fire Service: No objection.
- 5.6 Shropshire Wildlife Trust: Object. Two irreplaceable veteran trees have not been suitably accommodated within the scheme. One will be isolated by the development and needs to be set in a more extensive area of natural green space and the other would be lost and this is contrary to local and national planning guidance. Further information is provided to establish that there will be no impacts on water vole populations in either the immediate area or downstream due to changes in water quality. The need for further bat survey was identified but does not appear to have been addressed. The results of this additional emergence/re-entry survey should be available to inform the planning decision. It is not acceptable for surveys to be conditioned. Newport has been identified as lacking green space and this development could, with suitable modifications, play an important role in addressing this. A suitably detailed and costed biodiversity management plan is needed to identify actions and responsibilities to ensure long term biodiversity gains are realised and delivered
- 5.7 West Mercia Police (Place Partnership on behalf of the Police Service): No objection subject to the development being carried out in accordance with the Secure by Design Standards and the provision of a financial contribution of £29,108 towards the

associated infrastructure costs that would arise directly as a result of the development. This would go towards costs associated with the recruitment of and equipment for officers and staff, police vehicles and office accommodation.

- 5.8 Telford and Wrekin Local Access Forum: This planning application has a definitive public right of way running just to the northern and eastern boundary of the site. I am pleased that the applicant has realised this and has accounted for it in the deposited plans. However, it is important that Plough Lane is not used for vehicular access to the site during or after construction as it would put those who exercise the right on foot at risk. It is important that during construction work that this public right of way is not affected adversely and the full width is available to the public. It must not be partially obstructed by the site's fencing during or after construction, as this would be unlawful. If it were obstructed the public would have the right to pass through the private land or divert around any obstacle put in place
- 5.9 Environmental Services (Arboricultural): Object. There are two protected trees on the site and the proposal would result in the loss of one tree and the layout shown would result in an unacceptable impact on the other. Both trees are of a high quality and should be retained.
- 5.10 Environmental Services (Drainage): No objection subject to conditions
- 5.11 Environmental Services (Highways): Object. The Transport Assessment underestimates the impact of development and as such the conclusions that have been reached cannot be accepted. There are issues around the bypass and due to a lack of information it is not clear whether the proposal can be accommodated or if further mitigation is required. The TA has over estimated public transport provision in the area and the available buses either do not run as frequently or do not pass the site. Those services that do run do not run at times suitable for a commute or school run. The development must either provide a connector road link to Forton Road or a secondary access away from Beechfields Way. The potential layout places roads across some of the steeper gradients on the site and they possibly exceed acceptable adoptable gradients.
- 5.12 Environmental Services (Parks and Open Space): Object. The proposed number of dwellings is likely to trigger the need for an onsite NEAP (Neighbourhood Equipped Area for Play) yet only LEAP (Local Equipped Area for Play) is proposed. The existing ball court is not identified as a constraint and no links to it are proposed. The proposed details of the LEAP are not acceptable. The masterplan shows a large SUDS feature in close proximity to the LEAP (although there is a conflict between the masterplan and the landscape plan) which is a potential safety hazard. There is a field drain on the southern edge of the development boundary and the full impact of this needs to be considered should it be identified to be removed. Confirmation is required as to who will maintain the open space and the SUDs, with a long term management plan, and confirmation as to whether the applicant wishes the Council to adopt and maintain them. The existing towpath and fishing pegs are in need of refurbishment and require improvements to accommodate the additional use arising

from the development. There is no proposed provision to meet the needs arising from the development for sport and a development of this scale will need to contribute to this need.

- 5.13 Education: No objection subject to a financial contribution towards Primary and Secondary education facilities in the vicinity of the development.
- 5.14 Ecology: Object. Additional information is required relating to bats, water vole, retention of irreplaceable habitats (veteran trees), impacts upon the Strine Brook and impacts upon breeding birds. Veteran trees are considered irreplaceable habitats and cannot be meaningfully replaced by compensatory planting. Veteran trees have high biodiversity value and should be retained
- 5.15 Urban Design: Object. Whilst this application may present an “illustrative” layout to establish the principle of development, notwithstanding this, the proposals to develop this site are considered to be poorly conceived with very little supporting information as to how the development will actually respond and integrate successfully with the existing context without detriment to the landscape character. Concerns are raised in relation to access, highways and street hierarchy, density, scale, layout, connectivity and permeability, open space and appearance.
- 5.16 Affordable Housing: 80% of the affordable housing should be for affordable rent and 20% for shared ownership. The affordable homes should be transferred to an appropriate Registered Provider. A suitable S106 agreement will be required to secure the affordable housing. A Local Lettings Plan will also need to be agreed between the Council and the Registered Provider.
- 5.17 Planning Policy: The proposal is contrary to the development plan and there is little justification for releasing this site for housing given the Council’s extensive supply of housing land.

5.2 Neighbour consultation responses

- 5.2.1 A total of 39 letters were sent to the occupiers of neighbouring properties and the application was advertised in the press and with a site notice. As a result 66 letters of objection have been received raising the following issues:
- The borough has sufficient housing land;
 - The site is not allocated for housing;
 - There are already several large housing developments planned in Newport;
 - Loss of greenfield land;
 - Safety concerns regarding the access and the steep incline in the highway;
 - Increase in traffic;
 - The Transport Assessment has underestimated the amount of additional traffic;
 - Very little public transport is available in this part of the town;
 - The site is designated as Green Network in the new local plan;
 - The land is a peat based marsh with a high water table;
 - Lack of infrastructure within the town (including schools, roads, sewage, electricity, doctors and dentists);

- Loss of important habitats;
- Loss of protected trees;
- A covenant is on the land preventing its development;
- Loss of privacy;
- Impact from noise and dirt;
- The site development would be an eyesore as the site dominates the skyline of the town;
- Demolition of two houses;
- The land has important amenity and landscape value, the view from the footpath over Newport is probably one of the finest;
- The amenity value of the canal (a SSSI) is enhanced by the rural outlook;
- Impact on quality and supply of water on the canal;

6. PLANNING CONSIDERATIONS:

6.1 Having regard to the development plan policies and other material planning considerations, including comments received during the consultation process, the planning application raises the following main issues:

- The principle of the development;
- Ecological and tree impacts;
- Highway Impacts
- Loss of open space / agricultural land;
- The design and layout of the proposal;
- The impact on living standards;
- Flood risk and drainage;
- Open space and play facilities;
- Planning obligations;
- Other matters

The principle of the development

6.2 Section 38 (6) of the Planning and Compulsory Act (2004) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.3 Paragraph 14 of the NPPF states that proposals that accord with the development plan should be approved without delay and that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate development should be restricted.

6.4 Paragraph 47 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Paragraph 49 advises that where local planning authorities cannot demonstrate a five-year supply of deliverable housing

sites, their relevant policies for the supply of housing should not be considered up-to-date.

- 6.5 The Council published a five year housing land supply statement in October 2015 that covers the period from 2015 to 2020 and is based on the full Objectively Assessed Need for the borough. This concludes that the Council has a 10.9 year supply of housing land. This matter has been considered in detail at a number of appeals including, most recently, two Public Inquiries relating to housing development within the rural area on the edge of the built up area of Telford (reference APP/C3240/W/15/3010085 – Land off Muxton Lane and APP/C3240/W/15/3025042 – Land at Haygate Road, Wellington).
- 6.6 A number of matters that are relevant to this proposal were considered in detail at those Public Inquiries and the Planning Inspectors came to different conclusions on some of those issues despite considering very similar evidence. The appellant in the Muxton Lane Inquiry, Gladman Developments Ltd, has lodged a legal challenge against the Inspector's decision and the Local Planning Authority ("LPA") is cited as the second defendant in the challenge. The LPA is considering how to respond to the Haygate Road appeal decision.
- 6.7 Whilst these appeal decisions are material planning considerations in the determination of this proposal it is considered that the LPA can continue to regard the Borough as having a greater than 5 year housing supply and give weight to its Housing Supply policies. This position may change in the future e.g. if Court cases require it should.
- 6.8 Until a change in approach is required the LPA will continue to determine planning applications in accordance with the provisions of the adopted development plan. The LPA considers that the Council can demonstrate it has in excess of 5 years of housing land supply based on an evidenced Objectively Assessed Need (OAN) and give weight to its relevant housing policies, in accordance with para 49 of the NPPF. As such its rural housing policy CS7 is NPPF compliant and therefore up to date. Further, because it has a number of relevant and up to date housing supply policies, the strong NPPF paragraph 14 presumption in favour of granting planning permission is not engaged.
- 6.9 Policy CS7 seeks to focus any new housing development proposed in the rural area into three named settlements where development should meet local needs; elsewhere in the rural area development is to be limited, and strictly controlled in open countryside. The appeal site is not focused upon any of the settlements named under Policy CS7. Given the significant supply of housing land available elsewhere in the borough, and within Newport, there is no housing justification to set aside current adopted housing supply policies that seek to restrict development in the rural area and allow the extension of the existing development boundary of Newport into a greenfield agricultural land within the rural area. The principle of the proposal is contrary to Policy CS7

and the proposal should therefore be refused on this alone unless there are material considerations that indicate otherwise.

- 6.10 Telford & Wrekin Local Plan Policy SP2 (Newport) supports the delivery of approximately 1200 net new homes in Newport up to 2031. Additional housing development over and above that already committed or identified in the Local Plan will be prioritised on previously developed sites within the town which does not affect the best and most versatile agricultural land. A large amount of Newport's housing needs has been met through a number of developments that have either already been approved or have a resolution to grant permission subject to the signing of a S106 agreement. It is considered that future housing growth should be directed to the south of the town which is more sustainable due to the existing infrastructure that is available and where the majority of development has historically taken place. It is considered that the development of this greenfield, agricultural land, for additional housing would be contrary to Policy SP2.

Ecological and Tree impacts

- 6.11 The site comprises semi-improved grassland fields with hedgerows, reedbeds, scrub and tall ruderal vegetation and two veteran oak trees (identified as T3 and T6 within the Arboricultural Impact Assessment submitted in support of the application). There is a group of alder trees on the site boundary and a dry ditch and section of the Strine Brook within the site. The hedgerows and reedbed are habitats of principle importance for nature conservation (as defined in Section 41 of the UK Biodiversity Action Plan) and the two veteran oak trees are a material planning consideration.
- 6.12 Both of the Oak trees have been categorised as A3 in the tree survey submitted in support of the application and both are subject to preservation orders. This categorisation means that the trees are considered to be of high quality with an estimated life expectancy in excess of forty years and that they are of significant conservation, historical and/or commemorative value. The submitted survey also states that both trees have a high ecological value.
- 6.13 The proposed Masterplan shows tree T3 as being lost and that a road would be constructed under the canopy of tree T6. To accommodate the road the crown would need to be lifted which would require the removal of two large limbs. The submitted tree survey states that 'the current road layout has the potential to impact on the existing rooting system by compacting or raising the soil level around the tree and suffocating the roots and reducing the amount of available nutrients. Both could lead to a detrimental effect on the long term vitality of this tree.'
- 6.14 The land levels drop away sharply from tree T6 which is sited close to the highest point of the site. No detailed information has been submitted to demonstrate

whether the levels would need to be changed in order to enable the site to be developed for the number of dwellings proposed. The information submitted in support of the application appears to be contradictory on this issue as the Design and Access Statement states that 'levels across the site have been respected particularly around the existing oak tree' and the submitted Geotechnical and geo-environmental site assessment states that 'given the existing sloping and hummocky profile of the site, it is assumed that some degree of re-profiling / cut and fill would be required in order to form suitable development platforms'.

- 6.15 The application was submitted in outline form with the means of access included within the proposal. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines "access" as "the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network". The proposal has been considered on this basis and the proposed internal road layout shows that the protected tree to the south of the site would need to be removed and that the internal road would run in close proximity to the protected tree towards the centre of the site.
- 6.16 Veteran trees have high biodiversity value and are considered irreplaceable habitats that cannot be meaningfully replaced by compensatory planting and should therefore be retained. Paragraph 118 of the NPPF states that 'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.' The proposal would result in the loss of one veteran Oak tree and would be likely to have a detrimental impact on the long term viability of another. The proposal is contrary to the NPPF, Wrekin Local Plan Policies UD2 and OL11 and Core Strategy Policy CS12 in this regard.
- 6.17 A bat inspection survey of the two houses to be demolished, bat assessment and emergence surveys on four trees on the site with bat roosting potential and a set of bat transect surveys were submitted in support of the application. That information recommended that a bat emergence and re-entry survey of the two houses to be demolished was required (to be undertaken during mid-May to August) however this additional survey work has not been undertaken. In the absence of this bat emergence survey (that was recommended by the applicant's own ecological consultant) it is not possible to conclude that bats are not roosting in the two houses to be demolished and it is not possible to grant planning permission since the impact upon European Protected Species cannot be fully assessed.
- 6.18 The bat survey of trees with roosting potential located a bat roost in the group of alder trees in the south of the site with a maximum of 4 bats emerging from one tree. These trees will need to be retained and protected within the development and must also be protected from the impacts of site lighting. The site transect surveys for bats recorded Soprano Pipistrelle, Common Pipistrelle, Noctule and myotis bats present.

The hedgerows around the site should be retained and protected from site lighting and bat roosting boxes should be provided in suitable areas of public open space.

- 6.19 A single water vole survey was carried out in July 2015. There are historical records of Water Vole on the Strine Brook in recent years. The vegetation on the Strine Brook section on site was too thick at this time to allow a thorough survey to be undertaken and the presence of the species cannot be ruled out. Further assessment for Water Voles, or confirmation that the brook and a 10m buffer can be protected from any development, is required before planning permission can be granted to ensure the protection of this species under the Wildlife and Countryside Act 1981 (as amended). The Masterplan does not show any built development within 10m of the Strine Brook.
- 6.20 No newts or reptiles were recorded within the vicinity of the site and no badger setts were recorded on the site. Conditions requiring the use of reasonable avoidance measures and a pre-commencement check for badgers would be sufficient to ensure that these issues are satisfactorily controlled.
- 6.21 The site is within 1km of two Sites of Special Scientific Interest (SSSI). Aqualate Mere SSSI is to the north east and the applicant's ecological consultants conclude that there are no likely direct or indirect impacts on Aqualate Mere SSSI which is upstream of the proposed development and has limited public access. Newport Canal SSSI is directly bordering the site but is elevated above the proposed development but there is a risk of indirect impacts from dust and pollution which would need to be controlled. The Aqualate Mere also forms part of the Midlands Meres and Mosses Phase II Ramsar Site. The NPPF (paragraph 118) applies the same protection measures, i.e. those set out in Regulations 61 and 62 of the Habitats Regulations, to any listed or proposed Ramsar sites, sites formally proposed as European sites, and sites identified or required as compensatory measures for adverse impacts on site interest.
- 6.22 The planning application was submitted with a supporting Ecological Assessment. That document confirms that roosting bats have been identified within a tree on the site and that a number of other trees have also been identified as having potential to support roosting bats. The assessment also states that the two buildings to be demolished (to make way for the access road into the site) have been assessed as having low potential to support roosting bats. However the assessment also recommends that a dusk emergence or dawn re-entry survey will be required and that it must be completed between mid-May and August. This survey has not been undertaken. It is therefore considered that insufficient information has been submitted to demonstrate that the demolition of Nos 14 and 15 Kestrel Close would not have an impact on Bats. In the absence of this bat emergence survey it is not possible to conclude that bats are not roosting in the two houses to be demolished and it is not possible to grant planning permission since the impact upon European Protected Species cannot be fully assessed. The proposal is therefore contrary to paragraph 99 of ODPM Circular 06/2005 (which requires the extent of the effect on

protected species to be established before permission is granted) and to paragraphs 109 to 125 of the NPPF and Core Strategy Policy CS12.

Highway Impacts

- 6.23 The Local Highway Authority (LHA) discussed the scope of the Transport Assessment (TA) with the applicant prior to the submission of the application but only in the very broadest terms. As a result there are elements of the TA that are not agreed. The proposed residential trip rate proposed for the assessment is very low and has not been agreed with the LHA. Newport has some of the characteristics of a commuter settlement and it is expected that the trip rates would be double what has been used. The submitted traffic survey shows that Beechfields Way generated 110 and 111 two way trips in the AM and PM peaks respectively which equates to 0.9 trips per dwelling as opposed to the figures of 0.436 and 0.386 used in the TA. As a result the TA underestimates the impact of the development and as such the LHA does not accept the conclusions that have then been reached.
- 6.24 In addition the distribution of the development trips across the local highway network, including A41, A518 and the routes through Newport to Telford were requested by the LHA and this information has not been provided. Without this information it is not possible for the LHA to reasonably determine if the proposal can be accommodated within the existing highway network or if mitigation works are required.
- 6.25 The TA has not included any of the committed developments for Newport and has relied on a software model (TEMPRO) to pick up local growth. However as none of the recent permissions were identified in the previous Local Plan they have not been covered by TEMPRO and as such the LHA consider that the growth factor used is an under estimation.
- 6.26 The TA has over estimated public transport provision in the area and the available bus routes identified either do not run as frequently as stated or do not pass the site. Those services that do run do not run at times suitable for a commute or school run.
- 6.27 The LHA has stated that it would not support development which exceeds 100 dwellings off a cul-de-sac. Beechfields Way already exceeds this therefore the development must either provide a connector road link to Forton Road or a secondary access away from Beechfields Way. The connector road cannot be delivered because there is insufficient road width available without third party land and Plough Lane has insufficient width to function as the secondary access. As such it is considered that the only opportunity would be to provide a link across Plough Lane and through the site to the north (subject to planning application TWC/2015/1024). However Plough Lane is situated outside of the application site boundary for both of the developments and the proposals would need to be resubmitted to increase the application site boundary.
- 6.28 This proposal includes the provision of a mini roundabout at the junction of Beechfields Way and Kestrel Close. Whilst the LHA have no objections to this in principle the proposal would need to be reassessed following the submission of the

information referred to above. Further detail is also required to demonstrate that the junction can accommodate the swept path of service/delivery vehicles and how the road gradient impacts on the design.

- 6.29 The layout shown on the masterplan places roads across some of the steeper gradients on the site and they possibly exceed acceptable adoptable gradients. As the topography of the site is challenging more information is required to demonstrate that the site roads can be delivered to meet adoptable standards. However as stated above only limited information has been submitted regarding the levels of the site and some of the submitted information is conflicting.
- 6.30 Concern has also been raised by residents about the introduction of a roundabout on Beechfields Way due to the steep gradient of that road. Some of the objections received have advised that vehicles can struggle to climb the hill and that a roundabout that forces vehicles to slow down would make the matter worse. Whilst it is recognised that this is a concern for local residents the Council's Highways Officers do not consider that the design of the proposed road layout is unacceptable in this regard, subject to the submission of the information outlined above.
- 6.31 The submitted Transport Assessment underestimates the likely impact that the development will have on the highway network and therefore fails to demonstrate that the development can be accommodated within the existing and proposed highway network and that it will not have an unacceptable impact on highway safety. A single point of vehicular access into the site is not acceptable for a development of this scale and insufficient information has been submitted to demonstrate that the adoptable roads can be provided within the site due to its challenging topography. As such the development is contrary to Policy UD2 and paragraph 32 of the NPPF.
- 6.32 The NPPF states that decisions should take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. A revised Transport Assessment that accurately estimates the likely increase in traffic that would be generated and an accurate assessment of how that additional traffic would impact on the transport network could conclude that off-site improvement works could mitigate the impact of the development and to overcome some of the concerns of the Local Highway Authority. However without that information it is not possible to conclude what those off-site works would be and whether they could be delivered cost effectively without impacting on the viability of the proposal.

Loss of open space / agricultural land

- 6.33 Policy OL6 seeks to protect locally important incidental open land within or adjacent to built-up areas where the land contributes to the character and amenity of the area. The policy advises that open land without any special designation located within or adjacent to built-up areas can make an important contribution through helping to define the setting of surrounding development, helping to relieve the sense of

congestion and pressure in urban areas and to provide green space, visual variety and local recreational opportunities.

- 6.34 The site is incidental open land on the edge of the built up area of Newport. It makes a valuable and important contribution towards the character and amenity of the area. The site is used by local residents and also makes a positive contribution to the setting of the footpath that runs along the eastern boundary of the site. In this respect the loss of the locally important incidental open land at the edge of the settlement which is valued and used by the local community, would have an adverse impact upon the area and would be contrary to Policy OL6.
- 6.35 In recognition of the value and importance of the site as open space it is designated within the Telford & Wrekin Local Plan (Publication Version) as Green Network. The Green Network emerged from the original Landscape Masterplanning of Telford and was later adopted within the Telford Local Plan and the Wrekin Local Plan and has been extremely effective in protecting green space within Telford and shaping the appearance of the town. The Green Network is identified as a strategic interconnected network of open spaces within the urban areas of Telford and Newport. Land within the Green Network has been assessed as performing the following functions:
- To provide significant visual amenity value in the form of extensive views over green open areas, water bodies or woodland;
 - To provide separation between built up areas and to help retain and enhance the individual identity?? of local communities;
 - To provide an appropriate supply of open land to meet the diverse recreational needs of an expanding population;
 - To maintain, protect and enhance the borough's ecological value in terms of natural habitats and species;
 - To maintain, protect and enhance the unique geological and archaeological features within the borough;
 - To provide open space linkages through which footpath, cycleways and ecological corridors can connect different parts of Telford or Newport.
- 6.36 The development of the site for housing would be contrary to Policy NE6 as it would fail to protect, enhance or maintain the Green Network. Whilst the Telford & Wrekin Local Plan does not yet form part of the Development Plan it is a material consideration that can be afforded weight in the decision making process, as stated in Paragraph 216 of the NPPF.
- 6.37 The D&A Statement describes the site as "low quality private agricultural land" and the Agricultural Land Classification and Soil Resources report also submitted in support of the application confirms that 48% of the site is good quality (Grade 3a) agricultural land and that 52% of the site is of moderate quality (Grade 3b) agricultural land. The NPPF states that that land in Grades 1, 2 and 3a are regarded as being the best and most versatile agricultural land.

- 6.38 The NPPF advises that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. However the NPPF also states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Only a relatively small area of best and most versatile agricultural land would be lost as a result of this proposal however it is considered that some weight should be given to this loss.

The design and layout of the proposals

- 6.39 This is an outline planning application with all matters of detail reserved for subsequent consideration apart from the means of access to the site. The precise siting, design and appearance of the houses are therefore not known at this stage however a Design and Access (D&A) Statement and a Masterplan have been submitted in support of the proposal.
- 6.40 The proposals are considered to be poorly conceived with very little supporting information as to how the development will actually respond and integrate successfully with the existing context without detriment to the landscape character. The submitted masterplan fails to take account of the various challenges of the site, particularly the topography. The site is described within the Council's Landscape Sensitivity Study (2014) as "strongly undulating" as well as being assessed as "high/medium" in terms of visual sensitivity. There is nothing in the D&A Statement to demonstrate that an assessment of this aspect of the proposal has been undertaken which is especially concerning given that the site falls some 16m from its highest to lowest and the land is described as "sloping" and "hummocky" in profile within the information submitted in support of the application.
- 6.41 In the Landscape Sensitivity Study (2104) the site is considered to be "very sensitive to housing" and although there is a suggestion that it might be possible "to develop a limited part of the site without detriment to the wider landscape a detailed study would be required to discuss whether this was appropriate". In contrast, the applicant seeks to develop the whole site without setting out an overall strategy or how the proposed development will respond and respect the levels.
- 6.42 The D&A Statement states that the majority of the development would be detached and semi-detached dwellings with an element of smaller terraced units and apartments and that it would be predominantly two storeys in height with an element of two and a half and three storey properties. Whilst a Landscape and Visual Impact Assessment has been submitted in support of the application it states that the proposed development is for detached and semi-detached two storey dwellings. It is not clear whether the two and a half and three storey buildings referred to in the D&A Statement have been given any consideration as to their visual impact on the landscape. The Masterplan indicates that the apartment buildings would be located in the north eastern section of the site which includes the higher parts of the site that would increase their visual impact.

- 6.43 The D&A Statement includes a “Proposed figure ground” that compares the proposed density of development with that of the existing housing along Beechfields. No figures are given as a comparison of the density of the development and the drawing appears to show that the proposed density appears high in comparison. Given the fact that the site is agricultural land within the rural area outside of the built up urban boundary it is considered that in principle the density should be below that of the existing housing. In order to satisfactorily accommodate the veteran Oak tree towards the highest part of the site and to retain the other veteran Oak tree towards the south of the site a greater degree of the site would need to be free from development and this would increase the density of the development on the remainder of the site.
- 6.44 Thus, it can be demonstrated that the proposals would not be in accordance with Core Strategy Policy CS15, saved Wrekin Local Plan policy UD2 and paragraphs 56 to 68 of the NPPF.

The impact on living standards

- 6.45 There are a number of existing houses to the western boundary of the site along Kestrel Close and Beechfields Way that either back onto the site or are sited side on. Whilst the proposed houses would clearly be visible from the existing houses and the development would represent a significant change in view for the occupiers of those houses it is considered that it would be possible for a layout to be drawn that provided adequate separation distances and would not result in overlooking to an unacceptable level.
- 6.46 The A41 runs close to the eastern boundary of the site and a noise assessment was submitted in support of the application that identified areas of concern. The noise report details that internal noise levels for day time and for night time periods are significantly higher than the noise limits set out in the relevant guidance for the control of noise in and around new buildings (BS 8233: 2014). The report details that double glazing would be used as a mitigation method however the details of the glazing / glazing units have not been discussed nor have details been provided of the type of ventilation that would be installed. As well as double glazing the report states that “the building fabric will also be constructed to ensure that a 39 dB reduction is achieved” however no information has been submitted to show how this would be achieved.
- 6.47 The submitted report also states that an acoustic barrier could be used along the eastern boundary of the site to improve the noise levels for garden areas. The report states that the barrier would need to be approximately 2m in height however no detailed information has been submitted of the barrier.
- 6.48 The erection of a barrier that could be in excess of 2m in height, along the eastern edge of the site would have a direct impact on the footpath that runs between the site and the boundary with the A41. The barrier would enclose the footpath and would significantly reduce the attractiveness of its use. Whilst an acoustic barrier may be

required to ensure a satisfactory development in terms of the living standards of the future occupiers of the housing it would not be acceptable due to its wider impact on the area and further indicates the site's unsuitability for housing development.

- 6.49 Without the additional information outlined above it is not possible to reasonably determine whether the future residents would be adversely affected by noise. As such the development is contrary to paragraph 109 of the NPPF that advises that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings.

Flood risk and drainage matters

- 6.50 The application is supported by a Flood Risk assessment and has been assessed by the Environment Agency and the council's drainage engineers. With regard to flood risk the EA has confirmed that on the basis that there is no built development within Flood Zone 3 or 2 they have no objection to the proposed development.
- 6.51 The council's drainage engineers have stated that insufficient information has been submitted at this time to establish the principle of surface water drainage for the site. While the FRA is acceptable in principle, only three infiltration tests across the site have been undertaken. As the site is adjacent to an area of marsh land with known high groundwater tables, the extent of this marsh and winter groundwater tables for this area have not been satisfactorily established and if soakaway drainage is not possible across the site, an alternative means of surface water drainage will need to be provided. The plans also show an attenuation basin, which is proposed to serve the highway, located at the bottom of the site within a marshy area. While the location of the attenuation basin is acceptable in principle, site constraints in this area mean that the groundwater table is at shallow depth.
- 6.52 For this reason a detailed design for this system will be required to identify how suitable attenuation will be achieved. The construction of this basin also raises issues with the adoption of the highway network. Whilst this approach is acceptable in principle, the creation of such a feature will require an adequate commuted sum to secure its ongoing maintenance. On other sites where attenuation is provided for both highway and properties the establishment of a management company may be an option. As this feature is only serving the highway this would not be possible. The Council would be required to adopt the feature to secure an adequate outfall. As there is limited detail on how the site will be managed at outline stage, the agreement of a commuted sum may not be possible and an alternate method of highway drainage may be required. The levels on the site may also pose an issue in relation to exceedance flows. A full exceedance flood routing plan should be submitted for approval based on assumed finished ground and floor levels. As this is an outline planning application it is considered that this information could be submitted in support of the detailed reserved matters application.

Open Space & Play facilities

- 6.53 The proposed number of dwellings would trigger the need for an onsite NEAP (Neighbourhood Equipped Area for Play), yet only LEAP play facilities are being provided on site; nor is there any proposed offsite contributions being made to facilitate the full needs arising out of this development for children's play (NEAP facilities). There is an adjacent ball court (in need of refurbishment) to the southern side of the development. This is not identified as a constraint in the applicant's appraisal nor is there any proposed link to this facility from the proposed development. Whilst there may be screening of this facility (these trees are likely to need some works to them), it still requires a buffer of 30m to the nearest residential boundary (it appears that the nearest housing appears to encroach upon this buffer).
- 6.54 The suggested proposed details of the LEAP are not acceptable. This site is extremely wet and Natural Play with timber facilities will have a significantly shorter lifespan than is usual for this material, and a highly used natural landscaped play area is likely to suffer from muddied and slippery surfacing. The proposed grass matt safer surfacing may also prove difficult to safely maintain / access (as it sinks in the peat bog). As such, a more formal provision would be required. Construction in this area is likely to be higher than normal to enable an increased depth of groundworks due to the wet spongy nature of the peat bog beneath. It should also be noted that access footpaths to these areas should also be metalled to ensure access is retained throughout the year.
- 6.55 The masterplan also shows a large SUDS feature in close proximity to the LEAP. Water features close to play areas can pose a safety hazard and if this is proposed additional safety features will need to be provided such as fencing off with none climbable fencing (not post and rail). It is considered that the precise siting and design of the play space could be secured by Condition.
- 6.56 The submitted details propose areas of open space within this development that includes ornamental and herbaceous planting / hedgerows and wildflower areas which require high maintenance. It would be necessary to resolve whether the applicant is intending on maintaining the open space, whether it would be conveyed to individual properties or if the applicant wishes Telford & Wrekin Council Parks & Open Spaces to adopt and maintain the area. In addition a long term management plan would be required to determine how the specific maintenance is to be carried out. Should the applicant wish for the council to adopt and maintain this POS, a commuted sum for maintenance will be required and this should be agreed within a S106 alongside any other capital sums. As SUDs are also proposed, these areas need to also be confirmed as to whether the council are proposed to adopt.
- 6.57 It should also be noted that a number of trees are located on the proposed entrance within Highway verge. As such, these trees would require a maintenance sum of £350 per tree if the scheme were to be approved.
- 6.58 It is considered that the management and maintenance of the proposed areas of open space could be dealt with as a condition and/or at the reserved matters stage when the detailed landscaping design of the site is proposed.

Planning Obligations

- 6.59 As part of the consultation process financial contributions have been requested towards Primary and Secondary Education facilities. Taking account of surplus spaces the required level of contributions is £383,260 towards Primary Education and £248,068 towards Secondary Education. This would be in accordance with Saved WLP Policy H22.
- 6.60 As the site is located within the Rural Area affordable housing would be provided at a rate of 40%. This would be in accordance with CS Policy CS7.
- 6.61 Place Partnership (on behalf of West Mercia Police) has requested a financial contribution of £29,108 towards the associated infrastructure costs that would arise directly as a result of the development. This is based on a development of 170 houses resulting in the requirement for 0.83 members of additional staff being required to effectively deliver policing to the borough. The contribution would go towards the following:
- Recruitment and equipping of officers and staff: £4,592
 - Police Vehicles: £3,142
 - Office Accommodation: £21,374
- 6.62 Place Partnership consider that the request is directly related to the development and the direct policing impacts it will generate based on an examination of demand levels in adjacent areas and existing policing demands and deployment in relation to this. The request is wholly related to the scale and kind of the application development.
- 6.63 The Council's Parks & Open Space officer has requested a financial contribution of £350 towards the maintenance of each tree proposed within the development. This would be in accordance with saved WLP Policy LR6.
- 6.64 In identifying the required planning obligations on this application the following three tests as set out in the CIL Regulations (April 2010), in particular Regulation 122, have been applied (in addition to saved Wrekin Local Plan Policy T22) to ensure that the application is treated on its own merits:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 6.65 In addition account has to be taken of the changes to the CIL Regulations in April 2015 that now restrict the "pooling" of financial contributions to no more than five contributions to a single type of infrastructure. It is considered that the financial contributions set out above meet the relevant tests and should be included within a draft S106 that would be provided to the Planning Inspector in the event that the appeal is allowed.

Other matters

- 6.66 Although the stronger presumption in paragraph 14 of the NPPF is not engaged because the relevant policies are not out-of-date there is still a need to consider whether the proposal represents sustainable development and it is necessary to balance the social, economic and environmental impacts of the development.
- 6.67 The proposal could result in additional affordable and market housing. However limited weight should be given to the economic benefits of this as the site does not need to be developed as the Council has in excess of 10 years supply of housing land. The appeal site does not need to be developed and if it were to come forward it is possible that it would be at the expense of other housing sites and there would be no net social or economic benefit as a result.
- 6.68 The site is agricultural land, around half of which is classified as being best and most versatile and it makes a positive and valuable contribution to the amenity of the area. There are two protected veteran Oak trees within the site which are likely to be lost as a result of the development and the proposal could have a detrimental impact on a protected species. It is considered that there would be a net environmental loss as a result of the development.
- 6.69 The proposed development does not constitute a sustainable form of development in terms of the provisions of the NPPF.
- 6.70 It should be noted that the applicant may submit some of the additional information, outlined above as being required, as part of the appeal process. If this is the case, and the information is accepted for consideration by the Planning Inspectorate, the Council may need to re-consider the reasons that are given below for refusing the application.

7. CONCLUSIONS

- 7.1 The site lies within the rural area and outside of the built up area of Newport, as defined on the Wrekin Local Plan Proposals Map, where new development is to be controlled. The Council has a housing land supply significantly in excess of five years and there is no pressure to release further land for housing to meet the needs of Newport. The proposal is contrary to Policy CS7 as it proposes a significant number of dwellings in the rural area and cannot be considered to represent sustainable development.
- 7.2 The proposal would result in the loss of greenfield land, that includes best and most versatile agricultural land, that makes a positive and valuable contribution to the amenity of the area. The proposal would result in the loss of one and potentially two protected veteran oak trees and insufficient information has been submitted to demonstrate that it would not have a

detrimental impact on protected species. Insufficient information has been submitted to demonstrate that the existing highway network can accommodate the proposed development and the proposed access arrangements for the development are unacceptable. As such the development proposal would be contrary to the NPPF, Wrekin Local Plan policies UD2, OL6 and OL11 and Core Strategy policies CS6, CS7, CS11 and CS15 and Policies SP2, SP4, HO2, NE1, NE2, NE3, NE6, C3, C4 and BE1 of the Telford & Wrekin Local Plan (Publication Version) and does not fulfil the definition of sustainable development in paragraph 6 of the NPPF.

8. RECOMMENDATION

8.1 Based on the conclusions above, the recommendation to the Planning Committee is that had an appeal against non-determination not been submitted that PLANNING PERMISSION would have been REFUSED for the following reasons:

1. The site lies in countryside outside the built up area of Newport, as defined on the Wrekin Local Plan Proposals Map, where new development is to be controlled. The site also lies outside the settlements of High Ercall, Tibberton and Waters Upton, where new development within the rural area is expected to be focused. The Council has in excess of a five year housing land supply and there are no exceptional circumstances to justify the provision of new housing in this location. As such the development proposal is contrary to the NPPF, saved Wrekin Local Plan policies OL6 and Core Strategy policies CS6, CS7 and CS11 and Policy SP2 of the Telford & Wrekin Local Plan (Publication Version).
2. The proposal would result in the likely loss of two protected veteran oak trees that have a high ecological and amenity value. In addition the proposals do not accord with paragraph 99 of ODPM Circular 06/2005, or Standing Advice from Natural England nor do they provide necessary survey information relating to bats. The proposals do not contain sufficient information in order for the Local Planning Authority to be satisfied that their duty under regulation 9(5) of the Conservation of Habitats Regulations 2010 has been discharged, in that the use or otherwise of the dwellings to be demolished as bat roosts has not been established nor the extent to which any bat population may be affected by the proposals. Survey information is envisaged and no exceptional circumstances exist for the grant of permission in the absence of survey information. Nor has it been shown that any necessary disturbance caused by precautionary mitigation could not be avoided based upon survey information. Alternatives have not been explored. As such the proposal falls short of policy expectations set out in Policy CS12 of the Telford & Wrekin Core Strategy and national planning policy including the National Planning Policy Framework.
3. Insufficient information has been submitted to demonstrate that the development can be accommodated within the existing highway network without the need for mitigation. In addition the proposal would result in approximately 170 dwellings being accessed from a single point of access which would represent an

unacceptable form of development. As such the development proposal is contrary to the NPPF and saved Wrekin Local Plan Policy UD2.

4. Insufficient information has been submitted to demonstrate that the quantity of development proposed can be accommodated on the site without it having a detrimental impact on the character and appearance of the wider landscape. As such the development proposal is contrary to the NPPF, to saved Wrekin Local Plan policy UD2 and to Core Strategy CS15.
 5. Insufficient information has been submitted to demonstrate that the development can provide acceptable living standards for potential future occupiers with regard to noise pollution from traffic travelling along the A41. As such the development is contrary to the NPPF.
 - 6.
- 8.2 In order to give officers flexibility during the progress of this appeal, that the Development Manager: Development , Business and Employment (or any other officer authorised by him), be authorised to add to, change or amend the reasons for refusal and add to, change or amend the above-mentioned heads of terms for the Section 106 planning obligations