

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held on Wednesday, 13 August 2014 at 6.00pm in the Telford Suite at Shropshire College Hotel School Ltd (The Telford Whitehouse), Watling Street, Wellington, Telford TF1 2NJ

PRESENT: Councillors J C Minor (Chairman), N A Dugmore, I T W Fletcher, K R Guy, A S Jhawar, J Loveridge, A A Meredith (as substitute for E J Greenaway), L A Murray and C R Turley.

ALSO PRESENT: Councillor S P Burrell (for planning application TWC/2014/0230)

PC-019 MINUTES

RESOLVED – that the minutes of the meeting of the Planning Committee held on 23 July 2014 be confirmed and signed by the Chairman.

PC-020 APOLOGIES FOR ABSENCE

Councillor E J Greenaway.

PC-021 DECLARATIONS OF INTEREST

None.

PC-022 DEFERRED/WITHDRAWN APPLICATIONS

None.

PC-023 SITE VISITS

RESOLVED – that a site visit takes place at 4.00pm on 3 September 2014 at Littlehales Manor Farm, Lilleshall, Newport, Shropshire, TF10 9AN in respect of planning application TWC/2014/0348.

PC-024 PLANNING APPLICATIONS FOR DETERMINATION

Members had received a schedule of planning applications to be determined by the Committee and fully considered each report and the supplementary information tabled at the meeting regarding planning applications TWC/2014/0230 and TWC/2014/0419.

(a) TWC/2014/0115 - Land between Beech Hill & Blue House Barns, Chetwynd Road, Newport, Shropshire

This was an outline application for the erection of up to 19 dwellings, formation of a new vehicular access and drainage infrastructure works with all other matters reserved. The Planning Officer highlighted the elements of the report regarding the

presumption in favour of sustainable development set out in the National Planning Policy in the absence of a five year deliverable housing land supply, improvement to highways as part of the wider expansion of Newport, ecological impact with regard to loss of trees and the Aqualate Mere, accommodation of the proposals in the supplied indicative layout and proposed planning obligations.

Some Members expressed concerns regarding the loss of trees and the proposed access. The Planning Officer advised that the Council's Arboricultural Officer had been consulted and the applicant was aware of the need to mitigate against the loss of trees. The Council's Highways Engineer considered that the access provisions were acceptable.

Councillor A A Meredith proposed, seconded by Councillor N A Dugmore, that Members undertake a site visit but, on being put to the vote, this was not agreed. The recommendation printed in the agenda papers was then proposed and seconded and, on being put to the vote, it was by a majority:-

RESOLVED – that with respect to planning application TWC/2014/0115 the Development Management Service Delivery Manager be authorised to grant planning permission subject to:-

- (a) the applicants/landowners entering into a Section 106 Agreement (with authority to finalise terms to be delegated to the Development Management Service Delivery Manager) relating to:
 - (i) Provision of affordable housing constituting 35% of total number of units;
 - (ii) A contribution of £3666 per 2 bed unit (and above) towards primary and secondary education provision, (totalling £32,995 based on 14 units, with a deduction for the affordable units);
 - (iii) A contribution of £600 per 2 bed unit (and above) towards offsite play and recreation (totalling £8400 based on 14 units);
 - (iv) Planning monitoring contribution of 5% of total sum (£2069.75).
- (b) the conditions set out in the report (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager).

(b) TWC/2014/0230 - Land at Back Lane/Plantation Road, Tibberton, Newport, Shropshire, TF10 8NX

(Councillor K R Guy commented that he had not attended the site visit or been involved in the previous debate on 2 July 2014 and he felt in these particular circumstances he could not take part in the debate or vote on this application.)

This was an outline application for residential development on an existing site at the junction of Back Lane and Plantation Road. Determination of this application was deferred by Members at Planning Committee on 2 July 2014 for clarity in relation to:-

- Location of development

- Impact on the natural environment
- School place provision
- Drainage to be fully articulated
- Design & Access Statement to be updated to include density and numbers of units

The applicant had now provided this further information which was fully detailed in the report presented to Members. Further consultation responses were detailed in an update report tabled at the meeting.

Councillor E Ashcroft, representing Tibberton and Cherrington Parish Council spoke to oppose proposal. Reminding Members of the site visit which took place on 2 July 2014, Councillor Ashcroft raised concerns regarding the suitability of narrow lanes to cope with the increased traffic generated by the proposed development and commented that he understood the Committee had previously requested information regarding traffic movement in and around the village but it appeared this had not been provided. He also raised concerns regarding sustainability and drainage, particularly focussed on ground conditions, sewerage treatment and the proposed soakaway for storm water.

Councillor S P Burrell, Ward Member for Edgmond, also spoke in opposition to the proposals, which he believed were unsustainable in terms of the relative detachment of the village from other parts of the borough, limited local services or employment opportunities, highways, poor access to telecommunications, known substantial drainage issues and the capacity of local primary and secondary schools.

Mrs J Berry spoke on behalf of the local residents who objected to the proposals, which she believed were contrary to the requirements of the National Planning Policy Framework in terms of development on greenfield land when brownfield land remained available and environmental issues in terms of the negative impact on flora and fauna.

Mr M Parrish, the Applicant's Agent, addressed the Committee in support of the proposals noting that all information requested by Members on 2 July 2014 had been provided, that there were no objections, subject to conditions, from statutory consultees. He also pointed out that the minutiae of the development would be agreed at reserved matters stage and that all remedial works would be undertaken as requested by the Council's Ecologist.

The Planning Officer advised Members that the principle issues for their consideration were the sustainability of the size of the development in the rural areas and the presumption in favour of sustainable development at the heart of the National Planning Policy Framework in the absence of a deliverable five year housing supply. To inform the question of sustainability, she highlighted aspects of the report in relation to drainage, education, layout and density, highways and ecology.

During the course of the debate, some Members expressed lingering concerns regarding sustainability in terms of local education capacity, highways and access, infrastructure, drainage, and calculation of the lack of the five year deliverable

housing land supply. Conversely, other Members considered that proposed conditions would adequately mitigate against concerns and welcomed the reduction in proposed units from 34 to 25 with 40% affordable housing.

The Assistant Director: Planning Specialist reminded Members that the Highways Engineer and Severn Trent Water were satisfied that the proposals could be supported subject to conditions. He advised that the NPPF encouraged building on brownfield sites but did not insist upon it and noted numerous cases nationally where Government had permitted development to take place on greenfield land in order to ensure housing supply. The Assistant Director: Planning Specialist reminded Members of the presumption in favour of sustainable development set out in the National Planning Policy Framework, and noted that local housing supply figures were set by the Regional Spatial Strategy which was written when the economy was stronger and it was unfortunate that although building was now increasing, it was not taking place at a sufficient rate. He also drew attention to aspects of the report detailing the expenditure of proposed S106 financial contributions for education and ecology.

Members raised further queries regarding visibility splays, with which the Planning Officer confirmed the Highways Engineer was satisfied. Members noted that that this was an outline application and sought reassurances that any future reserved matters applications for the site would be presented to the Committee for determination. On being put to the vote, it was by a majority:-

RESOLVED – that with respect to planning application TWC/2014/0230 the Development Management Service Delivery Manager be authorised to grant planning permission subject to:-

- (a) the applicants/landowners entering into a Section 106 Agreement (with authority to finalise terms to be delegated to the Development Management Service Delivery Manager) relating to:
 - (i) Provision of affordable housing constituting 40% of total number of units;
 - (ii) A contribution of £700 per unit, of which £200 per dwelling towards improvements of the Public Right of Way and £500 per dwelling towards a Traffic and Speed Management Scheme on the B5062;
 - (iii) A contribution of £4083.47 per 2 bed unit (and above) towards primary and secondary education provision and transport costs;
 - (iv) A contribution of £600 per 2 bed unit (and above) towards offsite play and recreation and a commuted sum towards maintenance (to be agreed);
 - (v) Planning monitoring contribution of 5% of total sum.
- (b) the conditions set out in the report (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager); and

(c) any future reserved matters application to be presented to the Planning Committee for determination.

(c) TWC/2014/0419 - New Lawley Primary School, Off Martingale Way, Lawley, Telford, Shropshire

This was a Council reserved matters application pursuant to outline planning application TWC/2010/0828 for the erection of a primary school with playing field and community facilities and associated works. Full details of the proposal and related planning history in connection with the Lawley Sustainable Urban Extension (Lawley SUE) was comprehensively set out in the report. Issues relating to highways, the Parish Council and ecology had emerged following publication of the main report and these were thoroughly addressed in an update report tabled at the meeting. Lawley & Overdale Parish Council had requested that the application be determined by the Planning Committee.

Cllr A Hussey, representing Lawley & Overdale Parish Council, spoke in objection to the proposals on the grounds of the safety of the proposed access and egress, insufficient parking and inadequate community resources. The Parish Council suggested that the internal layout of the proposed building could be re-configured to make better community provision.

Mr D Middlemiss, the Project Manager for the proposals, spoke in support of the application in terms of design and education.

The Planning Officer commented on the planning history of the Lawley SUE and the associated commitment to build a new school, particularly noting the desire for the construction of the school as a landmark building and the adopted key design codes which had governed the architect's design scheme. The initial consent also set out the requirements for the highways which meant that it was not possible to address the Parish Council's request for the access/egress to the school to be a one-way system through this planning application. Similarly, bespoke facilities for the Parish Council could not be insisted upon as the historical documents did not suggest this would be provided. She also highlighted the content of the update report tabled at the meeting which resolved issues regarding landscaping and ecology.

All Members heartily welcomed the provision of a new school. However, some Members raised deep concern regarding existing traffic problems in the vicinity which it was considered would be exacerbated by the proposed access/egress to the school and were supportive of a one way system taking traffic away from West Centre Way. Some Members also remarked upon the limited parking provision and suggested moving the proposed location of the car park. Whilst Members supported the sustainable ideology of the Lawley SUE, some members felt that it was too simplistic to attempt to influence culture-change by designing-out provision for personal vehicle use. A number of Members, therefore, asserted the opinion that there was a need for the scheme to be revisited as it was now almost 10 years old and its provisions could be informed by experience.

Members noted the Parish Council's disappointment that there was no bespoke provision for them in the application but noted the proposed Sponsor's assurances to

facilitate community use and pointed to the successful experience of Stirchley and Brookside Parish Council at Lakeside Academy.

In response to comments regarding the suitability of the design of the Lawley SUE, the Planning Officer stated that whilst the practicalities expressed by Members were understood, the outline planning permission set out the guiding principles for the scheme and Members' wider concerns regarding highways were not subject of this planning application. The Assistant Director: Planning Specialist also sought to further clarify the position, explaining that the access road was part of the network in the wider development which had been approved and confirmed at the outline stage and, since it did not form part of this reserved matters application for a primary school, there was no scope to change the nature of the road without the payment of compensation. Substantial investment had gone into the highway network and the design codes had been approved by the Homes and Communities Agency as landowner. It was, therefore not viable to make the changes sought by Members at this stage. The Assistant Director: Planning Specialist also commented on central government's changes to the delivery of education and the importance of delivering primary education in the locality.

The matter having been robustly debated and all the information presented carefully considered, on being put to the vote it was by a majority:-

RESOLVED – that with respect to planning application TWC/2014/0419 planning permission be granted subject to the conditions as set out in the main report and additional conditions relating to Highways and Ecology as set out in the update report tabled at the meeting (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager).

The meeting ended at 7.27pm.

Chairman:

Date:

TELFORD & WREKIN COUNCIL

PLANNING COMMITTEE

3rd September 2014

Schedule 1 - Planning applications for determination by Planning Committee

TWC/2013/1028 Land adjacent Mill Cottage, Mill Lane, Wellington, Telford, Shropshire Erection of 4no. dwellings with associated access and parking ****AMENDED DESCRIPTION, PLANS AND INFORMATION RECEIVED****	2
TWC/2014/0348 Littlehales Manor Farm, Lilleshall, Newport, Shropshire, TF10 9AN Erection of 4no. Poultry houses, biomass fuel storage and heating building with associated vehicular access, ancillary equipment and landscaping	11
TWC/2014/0360 Land at Heath Hill/Balls Hill, Dawley, Telford, Shropshire Erection of 6no. detached dwellings, 4no. semi-detached dwellings and the erection of 12no. flats ***AMENDED PLANS RECEIVED***	27

TWC/2013/1028

Land adjacent Mill Cottage, Mill Lane, Wellington, Telford, Shropshire
Erection of 4no. dwellings with associated access and parking ****AMENDED
DESCRIPTION, PLANS AND INFORMATION RECEIVED****

APPLICANT

Mr Rose

RECEIVED

13/02/2014

PARISH

Wellington

WARD

College

OFFICER

Libby Harper

THIS APPLICATION HAS BEEN REFERRED TO PLANNING COMMITTEE FOR
DETERMINATION BY CLLR MIKE ION

OBJECTIONS RECEIVED: Yes

MAIN ISSUES: Principle of development, design and density, housing land supply,
access and footpath issues

THE PROPOSAL:

This is a full application seeking approval for the erection of four no. dwellings. The scheme as originally submitted comprised five units but has been revised further to officer concerns as to the density of the scheme, and lack of a presence of the dwellings sitting at the rear of the site on the streetscene. The proposed units would be 3 bed open market properties with individual parking, front and rear gardens.

SITE AND SURROUNDINGS:

The application site covers an area of extensive garden land, in parts overgrown, amounting to 0.16 hectares. The site fronts Mill Lane with an existing gated access sitting in the south western corner; the remainder of this boundary comprises an established hedge in the region of 2 metres high which continues along the front of Mill Cottage itself sitting to the north which is in the ownership of the applicant.

Mill Lane is a dead end and serves a business and 6 residential properties, including a Travelling Showpeople site and Wellington Boxing Academy. A Definitive Right of Way runs along the extent of Mill Lane linking to the pedestrian railway bridge and areas to the north. The site is approx. 66 metres from Regent Street and 700m from Wellington District Centre. Mill Lane comprises a variety of house types with detached and semi-detached properties, including Mill Cottage and Mill House which are large traditional detached properties. Heather Drive to the rear of the application site comprises 1970s mainly semi-detached properties, together with Millfields a local park which in the vicinity of the site is laid down to grass. No. 54 directly abuts the south eastern corner of the site.

Opposite Mill Lane to the south is New College; beyond the residential properties to the north sits the local railway line and a pedestrian access to Old Hall School and Wrekin College.

A mix of boundary treatments is present, as well as the aforementioned hedge boundary, including 1.8m close boarded and panel fencing, with planting and a wire fence in the region of 3 metres behind on the boundary with Millfields. A number of mature trees sit across the southern and eastern boundary of the site.

A bus stop is located at the end of Mill Lane, with Wellington District Centre within walking distance where mixed uses and good transport links in and around Telford are readily available.

PLANNING HISTORY:

W2001/1109 – Renewal of Planning Permission W98/1055 for erection of single dwelling. Full Granted 01/02/2002

W98/1055 – Erection of a single dwelling. Outline Granted 21/01/1999

W94/0409 - Erection of a single dwelling. Outline Granted 11/07/1994.

PLANNING POLICY CONTEXT:

National Planning Guidance:

National Planning Policy Framework

Wrekin Local Plan:

UD2 Design Criteria

H6 Windfall Sites in Telford & Newport

OL11 Woodland and Trees

Core Strategy:

CS1 Homes

CS3 Telford

CS5 District and Local Centres in Telford

CS12 Natural Environment

CS15 Urban Design

CONSULTATION RESPONSES:

Three rounds of consultation have taken place for this application, the latter further to receipt of amended plans amending the red line boundary to encompass an access running to Regent Street, the reduction in the number of proposed dwellings from five to four and an amended layout:

Wellington Town Council: Object

Object to the proposed development on the grounds that it would lead to overdevelopment which would result in the reduction of the amenity value of the locality, together with the associated additional traffic being unable to be dealt within the current access arrangements and having an adverse effect on highway safety over and along Mill Lane.

Ward Councillor: Object

Opposed to this planned development as the exclusive point of access is Mill Lane which is both unadopted, has the status of Public Footpath and is a regular

thoroughfare between Leegomery and Wellington. The road/footpath itself is in a poor state of disrepair with huge potholes and a poor camber. The planned development would result in a very significant increase in road traffic on a poor road that has already seen a significant increase in traffic as a result of the siting of the Boxing Academy. The planned development would greatly increase the risk to highway safety. Cllr Ion agrees with the Town Council that proposed development would lead to overdevelopment of the site and could well result in the reduction of the amenity value of the locality.

Highways: Comment

Initially commented that Mill Lane is in very poor condition and therefore seek confirmation as to what measures the developers are looking to undertake in order to mitigate the poor condition? Have further raised that the site edged red does not include Mill Lane, and queried what access rights there are? If there is a sub soil owner it may be that notice will need to be served on a 3rd party land owner. Mill Lane does have a Definitive Public Right of Way along it and it is suggested that the Local Access Forum be consulted through Anthony Francis-Jones.

Further to the final round of consultation, the Highways Authority have identified that they have no objection in principle to the proposal. However although Mill Lane is not on the adopted highway network, it is a Public Footpath as indicated on the Definitive Map. Therefore if the application is approved, Highways have requested a condition requiring consultation and liaison with the Council's Senior Rights of Way Officer with regard to any works required to Mill Lane as a result of the construction of the dwellings prior to commencement of development. They have also requested that the applicant be advised that the Council is only required to maintain public rights of way according to their use. Any improvements to better accommodate vehicular traffic is the responsibility of the frontage landowners.

Drainage: Support subject to conditions

Request the imposition of two conditions, comprising a scheme of foul and surface water drainage to be submitted and approved, and secondly that the surface water discharge rate be restricted to 5 litres per second per hectare and any attenuation feature should be designed to attenuate all flows up to and including the 1 in 100 year event +30% for climate change.

Environmental Health (Pollution Control): No comment received

Ecology: Comment

Request conditions to ensure the delivery of a number of bat and bird boxes within the site, together with provision of a lighting plan prior to the erection of an external lighting. This is together with a number of informatives addressing the timing of vegetation clearance to protect nesting birds, treatment of trenches to prevent any wildlife becoming trapped, and provision of replacement planting to include some native species. No additional comments are made further to consultation on the amended plans.

Arboricultural: Object

Originally supported the scheme offering conditions to protect the trees. Although this application involved 5 houses the vegetation was retained. This application retains none of the existing vegetation and trees therefore objects to the scheme.

Shropshire Fire Service: Comment

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications". The Fire Authority identify that specific consideration should be given to the following: Access for Emergency Fire Service Vehicles and provision of adequate access; Water Supplies for Fire - will need to be provided on the development to ensure adequate fire safety measures; Recommended Minimum Flow Rates and Location of Fire; provision of Sprinkler Systems - Residential Premises.

West Mercia Constabulary: Comment

Opportunities to design out crime and /or the fear of crime and to promote community safety within the development and therefore request a condition to be placed aiming to achieve the Secured by Design (SBD) award status for this development.

Telford & Wrekin Local Access Forum

This development is of concern as its only point of access is along Mill Lane, which only has the status of Public Footpath and is regularly used as such. Believed that it is probably a Restricted Byway but this still does not allow for the use of motor vehicles along its length. Appreciated that there are other, much older properties that use Mill Lane but they may well have easements or similar. Can see no way that the development can go ahead on what seems to be an un-adopted highway with only the status of Public Footpath. If the development was to go ahead the Forum would need very clear indications of how the pedestrian movement in this area was to be protected from vehicular traffic. It is worth noting that Mill Lane is not accessible by vehicles at all over the new rail-over-bridge and this is footpath too. The Forum wish, therefore, to mirror the concerns raised by Wellington Town Council too. The T+W Local Access Forum have a statutory duty to advise on the improvement of public access to land for the purposes of open-air recreation. Although the forum cannot directly oppose the development the following comments should be taken into consideration.

Neighbours:

A letter of objection has been received further to the first stage of consultation:

- Previous decisions including appeals, case law
- Residential amenity (loss of light, overshadowing, loss of privacy)
- Highway issues - condition
- Noise and disturbance, smells and fumes
- Physical infrastructure (public drainage, water systems)
- Social facilities – loss of greenspace
- Ground conditions (contaminated land slope stability/ mineshafts)
- Wildlife (ecology), trees and landscaping
- Viability and deliverability
- Layout and density of design, visual appearance, character of the area

The neighbour in response to the 3rd consultation has restated their original grounds of objection, and added that they are awaiting notification from Telford & Wrekin Council as to a Tree Preservation Order, and further highways issues with emergency vehicles parking in the lane outside of the property, and possibility Air Ambulance using site to land for future emergencies further to recent extension to New College.

PLANNING CONSIDERATIONS:

Mill Lane is located in the urban area of Telford within walking distance of Wellington District Centre where a range of services and facilities are available (approx. 700m away), and therefore accords with local policy which places the emphasis on the urban area to deliver housing across the plan period. Local Planning Authorities are further encouraged to promote the vitality of our main urban areas, and support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport through national planning policy. Housing applications should be considered in the context of the presumption in favour of sustainable development. The site is identified as whiteland on the adopted Proposals Map. Development will further aid the delivery of housing to address the lack of a five year land supply in a sustainable urban location; the principle of development is therefore considered acceptable by the Local Planning Authority.

National planning policy advises that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces. Locally, policy UD2 defines the means by which the Council will establish whether a development is of an appropriate design quality and relates positively to its context. Policy H6 is a further consideration for this application setting out relevant criteria against which a small windfall site such as this in Telford must be considered.

The design of the scheme has been subject to notable amendment, particularly bearing in mind a concern raised by Officers as to the proposed density and lack of presence of units at the rear within the streetscene of Mill Lane. The number of units has therefore been reduced to 4 dwellings comprising 2 detached, and 1 pair of semi-detached properties, from a detached and 2 pair of semis. The revised design means that both detached properties can be clearly visible in the streetscene with glimpses of the semi-detached properties also. The redesigned scheme also allows the existing access to be utilised and retention of part of the hedge at the front to be retained as a particular feature of this stretch of Mill Lane. Without a presence on the streetscene, the development would not be considered acceptable.

Amendment has also been sought to the elevational treatment of the proposed dwellings. The detached unit has been amended to reflect the architectural character of neighbouring Mill Cottage to the north which was considered to be a key relationship. Specifically, the unit has been revised from a gable fronted dwelling with a side extension incorporating an integral garage to a double fronted unit with a central gabled porch. A more characterful property has been secured through the addition of a chimney with corbel details, decorative ridge tiles (also incorporated on the porch), flat stone lintels (rather than brick arches) and sills, additional window panes on the front elevation, exposed rafter feet as per Mill Cottage. The semi-

detached units have also been revised to include stone sills, exposed rafter feet and shark teeth ridge tiles to provide shared features across the site.

The treatment of external areas has also been revised to deliver enhancement, with provision of a brick boundary wall around the front detached unit at the side and rear rather than a timber fence as originally proposed to again improve the view from the streetscene and improve the outlook of the units behind. Landscaped areas serving the properties at the rear have been introduced, with a particular emphasis on shifting parking away from the vista seen from Mill Lane towards the rear to help frame the view and afford a softer setting for the property considered more in keeping with Mill Lane. An alternative to a tarmac access road and parking areas has also been sought, which has been revised to a resin bond finish to again help soften the visual impact of introducing further buildings on to the site. A quality materials pallet would be key to translating the character presented on the plans to an on-site reality, a number of conditions are therefore suggested relating to materials. The proposal is now considered to reflect a high quality of design as required by policy H6.

Loss of privacy and overlooking has been raised as an issue. The position of properties either side of proposed Plot 1 at the front of the site is that the property to the south (2 Mill Lane Terrace) and to the north (Mill Cottage) is positioned in the region of 9m away. A revision has been sought to remove the window on the rear extension of the kitchen / dining room where an issue of overlooking would arise bearing in mind the position of habitable windows on the side of Mill Cottage, the elevation is otherwise void of windows other than a modest porch window and is therefore deemed acceptable, notably Mill Cottage is in the same ownership as the application site; an update will be provided at committee addressing this issue. On the opposite side, the side elevation of No. 2 was not visible during a site visit, the planning application for the houses (W2002/0590) has therefore been checked and reveals that there are no windows present on this elevation meaning no issue arises in respect of loss of privacy from the position of a proposed side window on the kitchen / dining room.

There are no windows other than a landing at the side of the semi-detached unit facing Mill Cottage. Beyond the site at the rear the nearest property is 54 Heather Drive, the property is set at a higher level. The proposed properties have been set at an oblique angle and reasonable separation distances apply to address this issue, no representation has been received from this property. Whilst ideally a greater level of separation would apply, the angle of the units helps mitigate this issue, and on balance it is considered that the position is such that this is unlikely to be won at appeal.

Whilst the size of the garden remaining for Mill Cottage is sizeably reduced than existing, it is still considered commensurate with the size of the property in an urban location.

The amended layout comes at an expense however, that being to the level of trees to be removed due to the position of the driveway and the proposed units. Whilst the majority of trees to be removed are classified as Category B2 - occurring as collectives but situated so as to make little visual contribution to the wider locality,

there is a sizeable Silver Birch (T4) classified as a Category A2 tree being of particular visual importance as arboricultural and/or landscape features further proposed for removal as it falls within the footprint of the proposed new access drive. A large tree visible from the properties to the south and east. An objection has been made by the Council's Arboricultural function to the revised design on the loss of trees incurred. For clarity, a Tree Preservation Order has not been imposed further to the position of one being awaited in the neighbour representation.

The site plan shows a number of landscaped areas within the gardens serving the properties, to include provision of a White Birch within plot 1 as a replacement for the Silver Birch. It is considered that the loss of trees can be offset with an opportunity to provide an appropriate level and form of replacement planting, including the aforementioned specific replacement tree. This is particularly bearing in mind the non-standard shape of the gardens such that trees will be able to mature and should not lead to shadowing issues down the line. A condition would be placed on a consent requiring details of further replacement planting to be provided. A request for the provision of replacement planting has also been raised by the Council's Ecology function, alongside a number of conditions to ensure the protection of wildlife through development and would be imposed on any approval.

The initial comments of the Highways Authority raised that the site edged red does not include Mill Lane, and queried what access rights there are; identified that Mill Lane is in very poor condition and therefore sought confirmation as to what measures the developers are looking to undertake in order to mitigate this; alongside, the context of a Definitive Public Right of Way running along Mill Lane. In respect of the first issue, the red edge has been revised to encompass Mill Lane running to the adopted highway at Regent Street, the application has been advertised the title for the ownership of the access is not registered but the owner could not be traced and no responses received to the advert. It is appreciated that the road would be likely to deteriorate further as a consequence of this further development, and a position has been stated that the applicant would look to undertake localised repairs to the access lane to fill pot holes and understands that the maintenance of the lane has been done on an ad hoc basis by the users of the lane as needed and that this arrangement will continue.

There has also been recent history (to last year) of more intensive use of the lane for residential access by the 4 cottages and farmhouse of north of the railway line prior to the bridge over the railway having been altered to a pedestrian bridge and a new access for the properties provided from the north. Driveway parking is provided for each unit affording two parking spaces. On this basis, the latest comments of the Highways Authority identify that in principle they have no objection to the proposal. In respect of the context of the Right of Way along Mill Lane, a condition has been requested requiring details of to any works required to Mill Lane as a result of the construction of the dwellings prior to commencement of development; these details will be agreed in consultation and liaison with the Council's Senior Rights of Way Officer. This condition would be taken forward and would help address the concerns

raised by the Local Access Forum and neighbour representation. The site is judged to be suitably accessed and parking provided in accordance with policy H6.

Drainage is proposed to be conveyed to mains sewer with a condition proposed requiring the provision of a scheme for foul and surface water to be submitted, such that the Council's drainage function support the application, and therefore satisfies the requirement of policy H6 that the site can be adequately drained.

A lack of evidence to demonstrate that the development would not be effected by rail noise was identified as a potential issue at the outset of this application. The applicant duly submitted an Environmental Noise Assessment to assess the impact of environmental rail noise on the proposed residential development. This proposes the inclusion of a glazing configuration to bring the worst affected properties to achieve well below the internal criteria, and particularly to ensure good resting / sleeping conditions are secured. It is considered therefore that potential noise issues can be addressed through a condition to take forward the recommendations of the noise assessment.

Further to the amendments made the application is considered to comply with the requirements of saved Wrekin Local Plan policies UD2, H6, Core Strategy CS15, alongside national planning policy.

In terms of other issues raised by the neighbour, reference to an application site where permission was refused for two dwellings in the vicinity of the site has been raised. This context is acknowledged and was appreciated at the outset of the application. Notably there were three reasons for refusal and related to 1. the location of the site within Green Network and a failure to demonstrate that there are exceptional circumstances for development; 2. that the proposed siting of the pair of semi-detached dwellings failed to respect and relate positively to the context of Mill Lane, which is characterised by frontage development; and 3. that the supporting information with regards to the noise assessment has insufficient detail and mitigation to demonstrate that housing development can be accommodated without the railway having a detrimental impact on the residential amenities of the occupiers. When judged against the current application site, the first reason for refusal is not applicable as the site is not within the Green Network; the second is appreciated in terms of not all of the development will be wholly visible on the frontage, but the site does front Mill Lane and amendments have been made to derive a more positive relationship to the streetscene; a lack of noise evidence has been addressed through processing of this application and a satisfactory assessment provided.

Further highways issues with emergency vehicles parking in the lane outside of the property, and possibility Air Ambulance using site to land for future emergencies further to recent extension to New College. Highways engineers have raised no concern with regard to access and parking; when emergency parking is provided this takes precedent and the emergency services have a duty in their own right to find the most appropriate location. The proposal will not remove a designated location for either aspect.

In conclusion, the Local Planning Authority considers that the principle of development is acceptable on this site which sits within the built up area of Telford and within walking distance of Wellington District Centre as a sustainable location for new housing development. Whilst the separation distances to neighbouring properties fall slightly below the optimum level desired, the new properties do not comprise habitable windows where a potential issue may arise or have been set at an oblique angle, such that a loss of privacy would not arise. An issue of overdevelopment has been identified, it is considered that development will not deliver a density out of character with the locality, particularly bearing in mind the reduction in the number of units from the original 5 proposed to 4, and critically that the elevational treatment of the proposed houses and a positive relationship with the streetscene of Mill Lane has been secured in line with the emphasis of policy UD2 and national planning guidance.

It is considered that through appropriate conditioning the site can provide a scheme which will not harm the visual amenities or character of the area, with impact to any flora, fauna and trees appropriately mitigated.

RECOMMENDATION: to GRANT PLANNING PERMISSION subject to the following conditions for the following reason(s):

1. A04 Time limit
2. B010 Details of Materials (incl. samples)
3. B012 Sample brick panel
4. B061 Foul and surface water (incl. restricted run off rate)
5. B133 Trees – replacements
6. BCust Details of works to mill lane
7. B121 Landscaping
8. C109 Erection of nest boxes
9. C109 Ecology - Lighting Plan
10. C38 Development in accordance with approved plans
11. D01 Removal of permitted development rights

Informatives

- I25e Trenches
- I25f Replacement Planting
- I32 Fire Authority (broadened)
- I35 Ecology – Birds
- I35 Secured by Design
- I40 Conditions
- I41 Reasons for Grant of Permission
- RANPPF1 Approval - NPPF

TWC/2014/0348

Littlehales Manor Farm, Lilleshall, Newport, Shropshire, TF10 9AN
Erection of 4no. Poultry houses, biomass fuel storage and heating building with associated vehicular access, ancillary equipment and landscaping

APPLICANT

H Timmis Farms Ltd, H Timmis

RECEIVED

24/04/2014

PARISH

Chetwynd Aston and Woodcote, Church
Aston

WARD

Church Aston and Lilleshall

OFFICER

Emma Green

OBJECTIONS RECEIVED: Yes

MAIN ISSUES: Principle of Development, Design, Impacts on adjoining properties

PROPOSAL

The proposal is for the construction of four poultry (broiler) houses with associated low profile feed soils, together with ancillary works and biomass heating fuel storage buildings.

The size of the broiler building will be 97.53m long by 24.38m wide and a height of 4.6m to the ridge and 2.44m to the eaves. The four biomass boilers and woodchip fuel store will be 18m by 18m with an eaves height of 4m and a ridge height of 6m. There will also be 4 chimneys

The new building is to house approximate 45,000 birds however it has a maximum capacity of 180,000 on completion.

This application has been subject to an Environmental Impact assessment.

SITE AND SURROUNDINGS

The application site is part of the farmstead of Littlehales Manor House and is located approximately 300m north of the farmhouse.

The nearest neighbouring property is located approximately 380m away to the north east. The site is approximately 2km north east of the village of Lilleshall and 2.5km south west of Newport.

The site is currently farm land with an existing concrete track to the southern side. The land has a gentle slope to the south west.

CONSULTATIONS

Consultations have been undertaken in accordance with the Development management Procedure Order 2010, in the form of direct letter notification of adjacent land owners and display of site and press notices.

Summarised standard consultation responses

Sustainability: We should actively support and help drive the delivery of renewable energy. Obviously, any adverse impacts should be addressed satisfactorily. DCLG planning guidance stresses that:

- It is important that the planning concerns of local communities are properly heard in matters that directly affect them;
- The need for renewable energy does not automatically override environmental protections;
- Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of planning proposals on views important to their setting;
- Proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration;
- Protecting local amenity is an important consideration which should be given proper weight in planning decisions.

Planning permission should only be refused where the concern relates to the above bullet-points. We should give significant weight to the wider environmental, social and economic benefits of renewable projects whatever their scale.

Contaminated Land: No comment

Church Aston Parish Council: Object on the grounds that traffic assessment appears to overstate existing usage of the road whilst understanding the proposed traffic movements for this development, so there are significant concerns about highway safety.

Concerns about the visual impact on this building on residential amenities.

Waste created by the site will lead to issues.

Also on the grounds of the overnight working of this type of facility and the impact on noise and traffic movements on residents in Pitchcroft Lane. There is an adverse environmental impact thought removal of hedgerows to accommodate widening of Pitchcroft Lane to incorporate passing places

Chetwynd Aston and Woodcote Parish Council: Objection on grounds of noise and smell and traffic concerns. This is an industrial development and is not suitable for the area. There are reassurances from the applicants that Littlehales road will not be used this should be controlled through conditions and other farm traffic should also use the new access, a weight restriction should be applied to Little Hales road.

Shropshire Fire Service: comment application should include fire safety informative

Natural England:

The proposed development has the potential to have a likely significant effect on Motte Meadows Special Area of Conservation (SAC) a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

The application site is in close proximity to an element of the Midlands Meres and Mosses Phase II Ramsar site (Aqualate Mere). The National Planning Policy Framework (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 European site interest. The site is also notified at a national level as Aqualate Mere Site of Special Scientific Interest (SSSI). In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England is satisfied that provided the proposed development is being carried out in strict accordance with the details of the application, as submitted, the proposals will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that with the exception of Aqualate Mere, that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(I) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

Please note however that further information relating to Aqualate Mere SSSI is still required before adverse effects on this SSSI can be ruled out. We are aware that your ecologist has contacted the applicant and requested that this information be provided and Natural England is happy to make further comment if necessary when this information is submitted.

Natural England does not hold locally specific information relating to the protected species on site. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape

characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

Drainage: Whilst the details contained in the FRA are acceptable, no details on the final point of discharge are provided other than stating they are going to an adjacent watercourse. A revised layout plan showing this connection should be submitted.

Arboricultural: Erection of 4no. Poultry houses, biomass fuel storage with associated vehicular access, ancillary equipment and landscaping

I have no objections to the proposal however I would like to make the following comments;

Without the aid of a tree survey, I would suggest that the new access road is moved southward outside of the canopy and the root protection area of the Oak tree on the northern boundary, to the east of the current passing place by Field Cottage. This will eliminate the need for pruning the lower branches of the tree for passing high sided vehicles it will also prevent the root protection area from being compacted by the hardcore surface proposed.

The *Malus sylvestris* (apple trees) proposed to be planted adjacent to Pitchcroft Lane within the hedges should be replaced by another species, the low growing canopy of these trees may lead to ongoing management issues to continually prune for road clearance the apples may also cause problems for users of the road. *Tilia cordata* has been proposed to be planted elsewhere within the scheme and would make a suitable replacement for the apples as a roadside tree.

The replacement hedging species has not been specified

Environment Agency: No objections

The proposed development falls under Schedule 1 of the EIA Regulations and therefore EIA is required. Schedule 1 sets the following thresholds, above which EIA is a mandatory requirement: Installations for intensive rearing of poultry or pigs with more that (a) 85,000 places for broilers or 60,000 for hens.

National Planning Policy Framework (NPPF): Paragraph 122 of the NPPF states *“local planning authorities should focus on whether the development itself is an acceptable use of land and the impact of the use, rather than the control of the processes or emissions themselves where these are subject to approval under pollution control regimes.”*

To clarify, we would not seek to ‘control’ the proposals through planning, those matters that may be controlled through the permit. But, you should seek adequate ‘assessment’ of material planning issues (odour, noise, etc.) when considering the impact of the use at the proposed location. This is to ensure, as the NPPF states that the location/land use is appropriate and acceptable. To assist the planning decision, the “effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account”

The site does not currently operate under an Environmental Permit (EP). The EP will control day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed

Odour: Our guidance (Intensive farming ‘How to comply’ versions 1 and 2, Odour management at intensive livestock installations) states that odour must be considered where:

- There are ‘sensitive receptors’* located within 400m of the installation; and/or
- The installation (if existing) has a history of substantiated odour related complaints within the last three years.

The issue of odour can be a qualitative issue as it is influenced by individual perception. It is highly unlikely that odours can be completely eliminated from an intensive poultry unit. We aim to regulate odours so that they are controlled so as to not materially affect any neighbour’s enjoyment of their property, cause them harm or offence, or reduce their legitimate use of the environment. The management of the operational unit is therefore critical for both agricultural and amenity purposes.

The applicant has progressed odour modelling to consider the 99.8th percentile (hourly mean odour concentrations over the year) as detailed in the submitted Odour Assessment (Dated 21 March 2014). Based on the odour reports submitted we don’t perceive odour as being a problematic issue. There is the potential for one off extreme weather events to increase odour but this is beyond the scope of the assessment.

The OMP can reduce the likelihood of odour pollution but is unlikely to prevent odour pollution when residents are in proximity to the units and there is a reliance on air dispersion to dilute odour to an acceptable level.

Noise: Our permit guidance (Intensive farming 'How to comply' version 2) advises that noise should be considered where there are sensitive receptors (i.e. residential properties) located within 400m of the proposed installation.

As stated above our interim regulatory guidance suggests this does not include properties owned by the operator or resided in by an employee of the operation. It has been clarified that Littlehales Manor itself is owned by the applicant and is therefore not considered a sensitive receptor.

The noise assessment indicates a negligible impact of surrounding dwellings and therefore a low probability of complaints. If actual emissions from the broiler unit are greater than those modelled your Council should recognise the potential limitations of further noise reduction using commercially available techniques.

Dust: Whilst intensive poultry farms produce dust, past experience has shown that the majority of it is deposited on the farm itself. Therefore provided that the farm is operated to the Best Available Technology (BAT) we would not anticipate it causing a nuisance to residents living nearby.

Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1, a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where 'there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off'

We note that surface water from the proposed development will be attenuated to 1 in 100 year event with a 20% and will utilise a swale.

Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance. We would also refer you to our West Area Flood Risk Standing Advice – 'FRA Guidance Note 1: development greater than 1ha in Flood Zone 1' for further information.

Water Management: Clean Surface water: e.g. rainwater from roofs and yard areas that is clean must be separated from contaminated (dirty) water and can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters (as discussed above).

The Design, Access & Planning Statement outlines that Dirty Water i.e. derived from shed washings; will be drained into sealed underground dirty water containment tank.

Any tanks proposed would need to comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). The detail of such will be reviewed within the EP application.

Manure Management (storage/spreading): Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities.

Ecology: Habitats the site comprises a large arable field surrounded by agricultural buildings, some mature hedgerows with mature trees with no other semi-natural habitats being present according to John Campion Associates Ltd (2014).

Bats: The mature oak and ash trees within the hedgerow have some bat roosting potential according to John Campion Associates (2014) and the hedgerows have value for foraging and commuting bats. There is also bat roosting potential in some of the older farm buildings but not in the modern barns which are close to the development site. The environmental statement chapter confirms that no hedgerow trees will be removed. Some sections of hedgerow will be lost but an extensive program of new hedgerow planting, native species shrub and woodland planting is proposed as part of the development.

Bat boxes should be provided around the site and new lighting should be carefully designed in line with the recommendations of John Campion Associates (2014) and the Bat Conservation Trust Bats and Lighting in the UK leaflet.

Badger: No field signs of badgers or their setts were recorded during the survey by John Campion Associates (2014).

Great Crested Newts: There are no ponds in close proximity which provide potential habitat for amphibians.

Nesting Wild Birds: The hedgerow sections to be removed have potential for nesting wild birds. Careful removal of vegetation will be required and a suite of bird boxes should be provided on the site.

Dormouse: There is no potential habitat for this species to be present.

Hedgerows and Trees: Sections of hedgerow will be removed to facilitate access which will be significant initially but the landscaping proposals for the site include a significant net increase in hedgerow length using native species planting and also planting of native species trees to screen buildings and new areas of native shrub and woodland planting. Overall there will be a net increase in both tree and hedgerow present on the site.

Recommend conditions relating to nesting and roosting boxes, lighting plan, and informatives on bats and trees, nesting birds, habitat regulation assessment,

Pollution Control: The application site has an existing use as agricultural (in particular farmland). The proposal to develop the site for the intensive rearing of poultry site is required to operate to the terms of a permit issued by the Environment Agency.

Paragraph 122 of the National Planning Policy Framework notes that LPA's should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than attempt to duplicate the control of processes of primary pollution control regulators, using pollution control regimes. However, in this instance there is some reason for concern due to the presence of the Farmhouse on the application site. Environment Agency permitting policy does not recognise as a relevant sensitive receptor for permitting purposes. It cannot be guaranteed that the farmhouse will always remain in the occupation of persons connected with the business; on that basis it would seem appropriate to consider the Farmhouse a sensitive receptor for planning purposes. This will have some impact on the submitted reports.

The proposal will put in place an extensive building, which will have significant ventilation requirements. The intensive rearing units produce large quantities of animal waste (chicken manure), and a requirement for movement of livestock (chickens) during the night, which is accepted as a means of reducing stress in the birds due to transit. These issues therefore create potential environmental concerns which are normally controlled by the Environment Agency under the terms of an environmental permit. However from a planning perspective the LPA may wish to consider the amenity impact for the installation as part of the overall land use acceptability.

Noise

The potential noise issues associated with the proposal have been addressed in the report produced by Resource Environmental Consultants (REC) dated 21st March 2014 reference 90496r1. I would make the following observations in respect of the report:

General points

1. The report considers environmental exposure for noise to noise sensitive receptors in accordance with Environment Agency Guidance (see above). This does not include the farm house building. It is noted that from a planning perspective these residential building are likely to be more severely affected than others outlined in the report. This has a bearing on some of the comments noted below.
2. The report uses measurement methodology and standards considered to be acceptable, namely:
 - a. BS4142:1997
 - b. BS8233:2014
 - c. WHO guidance
 - d. IEMA/IOA guidance 2002.
 - e. DMRB

The standards used apply to activities on the application site, and an assessment for more general environmental impact off site due to vehicles.

3. The ambient noise levels quoted appear higher than expected for 8 hour and 16 hour LAEQ's in a rural environment. No comment has been provided to qualify the principle noise sources or explain the data. Review of the data in Appendix 1 of the report shows higher than expected LAEQ levels expressed as hourly averages compared to other rural areas of the borough. Receptor R3 which has been used as NMP 1 is located within approximately 80m of the Main A518 and therefore is influenced heavily by road traffic which isn't prevalent at receptor R2 and R3. The conclusions of the report are therefore considered to be biased and could lead to inaccurate conclusions from receptors remote from the main road, which is the principle noise source.

Odour

Odour is one of the environmental issues covered by the Environmental Permit issued by the EA. In accordance with paragraph 122 of the NPPF, it would not be normal to duplicate odour controls for the proposed site on a planning decision with those on an environmental permit. It is therefore noted that the issue would be to determine if the odour likely to be generated by the proposed development is severe enough so as to create an unacceptable amenity issue in the area. If this is the case, then it would be entirely appropriate to refuse consent for the proposal on the grounds that the residual odour is unacceptably strong.

The odour assessment appears not to have considered the ancillary activities associated with raising of chickens, in particular, waste storage (from manure), handling and moving chicken waste, spreading of chicken waste on fields. In my opinion the impact of these activities is likely to cause odour events unless very carefully handled. As this activity is new to this area, and the spreading of chicken manure is likely to be routine, it would be expected that these activities would be assessed as part of the application.

There are no national standards for offensive odour. Odour determination is subjective. Individuals will perceive odour differently due to their olfactory sensitivity and individual subjective assessment of the smell present.

The environmental information submitted in the proposed EIA provides some evidence to demonstrate the acceptability of the proposed development; however, there are omissions and uncertainty as indicated above. Moreover, the gap between EA regulation of the site under the environmental permit, and the local authority determination of acceptability of the land use, needs to be carefully considered.

It is my view that the submitted information contains a number of technical deficiencies and that the submitted information does not provide a level of comfort for decision makers to approve the application as it stands.

The Environment Agency has recommended that the applicant twin track the planning application with an environmental permit application. This would, in my opinion from the basis of a greater level of detail, and enhance the understanding of the environmental aspects of the application. Hence I would concur with their observation. However, for planning permission to be granted, there is a fundamental land use determination required, it is my opinion that the applicant should go further and explain, in sufficient detail, how the amenity issues associated with this type of development can be overcome.

Highways: In receipt of the amended plans, Drawing no. 02 Rev A Submitted 25th July 2014, I refer to the above application and would confirm that in principle I have no objection to the proposal. However, I do ask for the following conditions:

- 1) C14 – Visibility Splay – 2.4m x 66m
- 2) Prior to commencement of development a scheme of off-site Highways works including full design and construction detail of the following:
 - Localised road widening along Pitchcroft Lane from the proposed site access to the junction onto the A518 to provide a minimum width of 3 metres,
 - 1 Passing bay to accommodate a Heavy Goods Vehicle located along Pitchcroft Lane between the A518 and the site access as outlined on the submitted drawing no. 02 Rev A Submitted 25/07/14,
 - And Localised widening on Pitchcroft Lane as outlined on the submitted drawing no. 02 Rev A Submitted 25/07/14.

Shall be submitted to and approved in writing by the Local Planning Authority. The agreed works shall be completed prior to first operation of the development.

Reason: In the interest of Highway Safety

- 3) Prior to commencement of use of the development improvements to the section of Public footpath (PROW No.9) where it crosses Pitchcroft Lane shall be provided .These works shall be to a standard first agreed in writing by the Authorities Public Rights of Way Officer, Andrew Careless.

Reason: In the interest of Highway Safety

- 4) Before the proposed development is brought into use the private access road within the site shall be surfaced in a bound material for a minimum distance of 15m from the rear of the highway boundary.
- 5) The proposed access is to remain ungated for the life of the development.
- 6) All vehicles associated to the proposed development shall enter the site from the direction of the A518 via Pitchcroft Lane to the proposed access and exit the site via the proposed access along Pitchcroft Lane in the direction of the A518 as outlined in the Environmental Statement Chapter 6.4, prepared by Halls Holdings Ltd, dated March 2014. There shall be no variation without the prior written consent of the Local Planning Authority.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

I would also ask for the following informative comment:

The applicant is to be aware that all off site Highway Improvement Works will need to be secured via Legal Agreement with the Local Highway Authority under S.278 Highways Act 1980.

Please advise the Applicant to contact Highways & Transport Maintenance (01952 384000) prior to commencing work for permission to work on the adopted highway, under Section 184 Highways Act 1980, and for advice/assistance in constructing the accesses. Please note the Applicant will need to present a valid Planning Consent and approved plan to the Highway Engineer before access works can proceed.

It is also my understanding that the applicant will be providing a Section 106 contribution of £11,000 towards Traffic management measures on the Highway network within the general vicinity of the site. The monies to be paid upon the commencement of development, indexed and any unspent monies after 5 years refunded to the applicant.

Neighbour consultation responses

Following consultation 17 letters of objection have been received these can be summarised as follows:

- Smells from the chicken sheds
- Muck spreading on fields
- Issues of noise from fans on 24 hours a day
- Additional traffic on Pitchcroft Lane
- Need for a weight Limit on Little haes Road
- Issues of general noise with the operation
- Property devaluation
- The extent of the noise survey is inadequate to assess the impact on all properties in the area, and will have an impact
- Impacts on privacy from passing HGV movements related to the development
- Impacts of working 11pm til 4am during harvest period
- Increase of 886 traffic movement will have safety implications on Pitchcroft Lane and limit walking access
- Creation of 3 jobs not sufficient to outweigh the impacts of this development
- Increase traffic use on a single track road
- There needs to be restrictions on traffic movements
- Controls on smells and odours
- Visual impact of such a large development
- A new road should be constructed linking to the A518

Letter of support

National Farmer Union: Food security for Shropshire is important and the challenge of the 21st century is to increase productivity, maximise outputs and minimise inputs to achieve sustainability. The UK has a large poultry market and growth in this field is predicted. The proposed enterprise will ensure diversity and sustainability within the existing business and will provide new employment opportunities. Broiler litter will be returned to the land to improve soil organic matter and reduce farmer reliance on fertilisers and therefore reduce the carbon footprint of food production.

Historic concerns about odour have been addressed with modern ventilation and codes of conduct and the biomass boiler is a positive use of renewable energy. The rural economy will benefit from ancillary activities. This is strongly supported as it will safeguard rural jobs, the local economy and contribute to sustainable food production.

RELEVANT HISTORY

There are numerous historical planning applications on this site, but none of relevance to this proposal.

RELEVANT POLICIES

National Planning Policy Framework

Core Strategy

CS2 Jobs

Cs12 Natural Environment

CS13 Environmental resources

CS15 Urban design

Wrekin Local Plan

UD2 Urban Design

E6 Rural Employment General

PLANNING CONSIDERATIONS

Principle of development

Through the NPPF and Local plan policies there is a commitment to secure economic growth and create jobs and prosperity, and planning should operate to encourage and not impede sustainable growth. This is of particular importance with the rural economy. The NPPF is clear that planning authorities should support the growth and expansion of existing rural businesses in well design new buildings that promote diversification.

In principle the LPA therefore considers that rural farm development in this location is acceptable subject to the design of the building being in keeping with urban design principles and there are no adverse environmental impacts or other material considerations which outweighs this. These issues are discussed further below.

Design

Due to the nature of this intensive chicken rearing building and scale of the business the proposal is for a substantial sized new building. Which is configured into four sheds with lower interlinking buildings and associated silos and chimneys.

There sheer scale of this building will create a striking feature within the rural landscape. Whilst the applicants have attempted to mitigate this impact through siting the development on lower land level and adjacent to other fairly substantial farm structures. Officers remain un convinced that the building design can be considered well designed as it is not of sufficient high quality design of a scale which integrates will into the site and the proposal fails to include any landscaping mitigation to soft the elements and is therefore considered to be contrary to planning policies CS15 of the Core Strategy and UD2 of the Wrekin local plan and guidance in NPPF as the scheme fails to improve the character and quality of the area.

Highways

The proposed development is to be accessed off the A518 via Pitchcroft Lane and new access road is to be installed to the west of Keld Cottage along Pitchcroft Lane, rather than utilising the existing farm access off Littlehailes Road.

Pitchcroft Lane is a typical narrow rural road and has limited passing bays and poor visibility. This proposed development will have intensive HGV vehicle movements associated with it. The Local Highways Authority have worked closely with the applicants to look to create improvements to the highway through removal of hedgerows to implement localised widening of Pitchcroft Lane and create passing bays and agreed a financial contribution for local highway management improvements to mitigate the impacts of the development and have therefore raised no objection to the proposed development.

It is noted that local residents have raised significant concerns relating to highways safety particular in relation to pedestrian movements along the lane and the impacts of a significant number of HGV movements that this intensive industrialised use will create in this rural locality.

Officers whilst noting that there are technical highway improvement works which can be undertaken to mitigate issues of visibility and passing places, such works will have a detrimental impact on the character of this area and have an urbanising impact on this rural road which is considered inappropriate within this context. The development is considered to fail to preserve or reinforce historic street patterns and has potential for loss of important hedgerows to implement the recommended improvements and therefore is considered to be contrary to planning policies UD2 of the Wrekin Local Plan and CS12 of the Core Strategy.

Impacts on adjacent land uses.

There have been significant neighbour objections relating to the environmental impacts of this type of land use on adjacent residents amenities in relation to issues of noise and odours and visual impact. Officers have addressed the visual impact element as part of the design consideration and fail to consider that this is acceptable.

The Local Planning authority needs to consider the amenity impact of the proposed land use but not the environmental permit which covers the issue of noise and odours.

The accompanying noise report does not include the existing farm house as a receptor. Given that there is no control to link this property to the business; officers consider that the impacts on this property need to be assessed. The ambient noise levels of this intensive farming operation will be higher than that expected in this rural location, particularly given that a significant number of the highways movements

associated with the development will be at noise sensitive times, i.e. night time. Furthermore, the relocated site entrance has not been modelled into the noise assessment to consider the impacts of traffic movement's noise on the nearby residential properties. There also needs to be consideration given to the tonal noise issues arising from the large number of fans that a development of this size requires. The noise levels quoted in the report are from unknown source and are not reflective of the site context as a rural location. On this basis your officers remain unconvinced that there is sufficient evidence to support the assertions within the Environmental statements and sufficient mitigation to overcome the noise impacts of this development on amenities of nearby resident and is considered contrary to guidance in NPPF.

With regards to the issue of Odours, it needs to be noted that odour is a subjective matter and there are no national standards. The application is supported by an odour report which identifies negligible problems and no significant impact. Your Environmental health officer fails to concur with this view point and considers that the report has failed to properly assess the new operation of handling and moving chicken waste at this location. Officers therefore consider that there will be an adverse impact to nearby residential amenity by virtue of odours contrary to guidance in NPPF.

Landscaping and Ecology

The Councils Ecologist has considered the impact of the development on the nearby European designated Site at Aqualate Mere and undertaken a Habitat regulation assessment and concluded there is no significant or adverse impact generated by this proposal.

Turning to the onsite ecology issues there are no issues regarding Great Crested Newts, and Badgers and impacts from the loss of hedgerow can be compensated through replacement bat boxes on the scheme which can be controlled through conditions.

With regards to landscaping the landscape assessment does include some proposed woodland planting adjacent to the building, however officers do not consider there is sufficient details or extent of planting mitigation to overcome the concerns of the visual impacts of the building of this scale and mass in the open countryside location and fail to consider that the application complies with UD2 and UD 4 of the Wrekin Local Plan.

Ground conditions

There are no adverse ground conditions, stability or issues or mine working constraints to the site. With regards to drainage the application has been supported by a Flood risk assessment which has raised no issues of concern. The Drainage Engineer has raised no principle objections but there is insufficient detail regarding

the location outlet of water to the nearby watercourse, however if members were minded to approve this application such details could be covered through imposition of conditions.

In conclusion, whilst there is a presumption in favour of supporting rural employment and diversification of farm enterprises on balance this is outweighed by the detrimental impact on this intensive industrial type use within this sensitive rural location, issues of noise and odours have failed to be fully addressed to ensure no adverse impact on amenities of adjacent residential properties. The proposed highways improvements will have an adverse impact on the character and appearance and fails to reinforce the local street pattern of this rural location and result in the loss of hedgerows and potential adversely impact on biodiversity. The Scale, mass and design of the building is of poor quality and fails to reinforce local distinctiveness and does not afford sufficient mitigation planting to overcome these concerns.

RECOMMENDATION: REFUSE PLANNING PERMISSION for the following reasons:

1. The scale, mass and design of the proposed building fails to respect and respond positively to the visual amenities of the area and is not of a high quality or distinctive design, it also fails to respect or integrate with the wider landscape setting. Furthermore proposed traffic improvements will fail to preserve or respect the prevailing rural characteristics of the locality and will have a detrimental impact on the visual amenity and is considered to be in conflict with and is therefore considered contrary to planning policy CS15 of the Core Strategy, UD2 of the Wrekin Local Plan and guidance on design in NPPF.
2. The location and intensity of the proposed use is considered incompatible with existing adjacent residential land uses and the industrial nature of the building in the rural location will cause adverse impacts in terms of noise and odours on neighbouring residential amenities contrary to guidance in the NPPF

TWC/2014/0360

Land at Heath Hill/Balls Hill, Dawley, Telford, Shropshire
Erection of 6no. detached dwellings, 4no. semi-detached dwellings and the erection
of 12no. flats ***AMENDED PLANS RECEIVED

APPLICANT

RGB Group, Jeff Britnell

RECEIVED

25/04/2014

PARISH

Great Dawley

WARD

Dawley Magna

OFFICER

Libby Harper

OBJECTIONS RECEIVED: Yes

MAIN ISSUES: Scale, mass and design, impact on the character of the area, residential amenity. highway safety, loss of TPO trees, planning contributions including replacement bowling green

THE PROPOSAL:

This is a full planning application seeking residential development comprising 10 no. 3 bedroomed houses, 8 no. 2 bedroomed apartments and 4 no. 1 bedroomed apartments with associated highway alterations. The units would be spread across two parcels of land sitting either side of Balls Hill, the proposed houses would be sited to the north east above the road, formerly occupied by the now demolished White Horse Public House and associated bowling green. The proposed houses are set within a U-shape formation around a central service road, with the apartments sited to the south west below Balls Hill and above Heath Hill - on an area of parking associated with the former pub. A small area of amenity space is cited to the front of each proposed house; and includes a patio and rear garden together with a storage area for refuse and recycling bins. A landscaping area is proposed either end of the apartment block with parking and refuse provision to the rear off Balls Hill.

The submission material identifies that the pub building was demolished following the 2008 approval and the site put on the market. The bowling green fell into disuse and the vendor was unsuccessful in selling the development land.

SITE AND SURROUNDINGS:

The application site is located approximately 500 metres to the northwest of Dawley District Centre benefiting from a range of facilities and services. It comprises an area of 0.32ha which includes a stretch of Balls Hill (previous applications excluded the highways land), which splits the site in to two parcels. The northern part formerly comprised the White Horse Public House, a Local Interest Building which was demolished during the previous planning application, notably the building fronted

Balls Hill and was visible from Heath Hill, with a now redundant bowling green at the rear.

The White Horse was a two storey brick property, rendered and painted white, with a tile roof. The rear of the building faced the bowling green. The land has a small raised platform alongside Balls Hill at the west end (former car park) and descends to the east corner alongside Balls Hill on the site for the former demolished public house. To the north of the site where the bowling green lay the land is fairly level.

The southern part of the site comprises the existing car park for the public house which is triangular shaped sitting between the two roads, and rises to the north following the slope of Balls Hill beyond.

The bowling green and associated facilities included floodlights, a shelter and outbuildings. There is a row of trees along the rear boundary with Willetts Way which are protected by a group Tree Preservation Order (TPO), there are no other trees on the site. The site is open since the demolition and removal of the Public House; however it was formerly enclosed by a mix of fences, buildings and walls.

A footpath leads along the southeastern edge of the bowling green linking Balls Hill through to a number of residential properties at Willetts Way. The area is predominantly residential, with a mix of house types. On the opposite side of Heath Hill is a combination of residential properties, industrial units and a bus depot. Land to the east of the site is known as 'The Ley' and is treed in nature with a number of mature trees along the frontage of Balls Hill a number of which form part of the group TPO covering the site.

PLANNING HISTORY:

TWC/2011/0170 Application to replace an extant planning permission (W2008/0531) for the demolition of existing public house and erection of 14.no dwellings with associated access. Full granted 20/12/2012

W2008/0531 Demolition of existing public house and erection of 14.no dwellings with associated access. Outline granted 08/05/2009

W2007/1508 - Demolition of existing public house and erection of 14.no dwellings with associated access. Outline refused 08/02/2008. Appeal Dismissed 08/09/2008

W2006/1243 Demolition of Existing Public House and Erection of 14no. Dwellings with Associated Access. Outline refused 08/12/2006

W2005/0798 - Residential Development for 14 Apartments. Outline refused 31/08/2005

PE/2013/1317 – Residential development.

PLANNING POLICY CONTEXT:

National Planning Guidance:

National Planning Policy Framework

Wrekin Local Plan

EH7 Contaminated land

UD2 Design Criteria

UD3 Urban Design Assessments

H6 Windfall Sites in Telford and Newport

H22 Community Facilities

LR4 Outdoor Recreational Open Space

LR6 Developers Contributions to Outdoor Recreational Open Space

OL11 Woodland and Trees

OL13 Maintenance of open space

HE25 Buildings of Local Interest

Core Strategy

CS1 Homes

CS10 Community Facilities

CS14 Cultural, Historic and Built Environment

CS15 Urban Design

CONSULTATION RESPONSES:

Great Dawley Parish Council: No objection

Highways: Comment

No objection is raised in principle to the proposal but ask for the imposition of conditions relating to the time of provision for arrangements for Parking, Turning, Unloading and Loading; a condition to secure a Visibility Splay of 2m x 25m; and that full construction detail for the offsite highways works including road widening and the provision of a footway along Balls Hill , improvements to the Balls Hill and Heath Hill junction and other associated works are submitted and approved by the Local Planning Authority. A Section106 contribution of £3000 is requested towards the implementation of a Traffic Regulation Order on Balls Hill and Heath Hill within the vicinity of the development. The monies are to be paid upon the commencement of development, indexed and any unspent monies after 5 years refunded to the applicant.

Informatives relating to contacting the Highways Authority referencing the timing of works, and making the applicant aware that all off site Highway Improvement Works will need to be secured via Legal Agreement with the Local Highway Authority under S.278 Highways Act 1980, are also requested.

Arboricultural: Support subject to conditions

No objection is raised subject to the tree replacements which have been agreed, with the need for detail required.

Environmental Health (Contaminated Land): Support subject to conditions

The proposal is for houses with potentially sensitive receptors in an area that had some mine workings. In view of this, and in relation to Paragraphs 109 and 121 of the National Planning Policy Framework, Environmental Health recommend that a condition be imposed ensuring that potential land contamination issues are addressed.

Education: No objection

A contribution of £34,947 is requested towards primary school education, no secondary contribution is sought.

Drainage: Support subject to conditions

No objections are raised in principle subject to the imposition of two conditions, comprising a scheme of foul and surface water drainage to be submitted and approved, and secondly that the surface water discharge rate shall be reduced by 30% of that existing, and any attenuation feature should be designed to attenuate all flows up to and including the 1 in 100 year event +30% for climate change.

Parks & Open Spaces: Comment

Concerns have been raised that the applicant has reiterated that negotiations may be required on previously agreed S106 arrangements to compensate for the loss of the bowling green. Given the replacement cost was double what was able to be secured from this development for its actual replacement, no further compromise is likely to be accepted by P&OS / Sport England and indeed indexation should be a consideration given the time this development has taken to come into fruition. They have also identified that there appears to be open space proposed on this development, and query how and who is to maintain this?

Ecology: Support subject to conditions

It is identified that the site has potential for nesting wild birds to be present, and therefore the provision of nest boxes would be a valuable enhancement to the site. The provision of artificial bat roosting boxes is also identified as a valuable enhancement to the site. Lighting should be carefully controlled on the site to avoid impacts on foraging and commuting bats. On this basis, a condition is requested to ensure the delivery of a number of bat and bird boxes, and provision of a lighting plan prior to the erection of any external lighting to minimise disturbance to bats. An informative has also been requested relating to the protection of nesting birds.

Built Heritage Conservation: Comment

The proposal does not directly affect the setting of the Local Interest Building, 'The Leys' however, they have questioned whether the proposed designs for the flats or the houses are appropriately reflective of the local prevailing form. The flats in particular are considered quite densely urbanized in form, a huge block, compared to the more modestly sized residential dwellings in the local area. They agree that there is somewhat of a mixture of old and new but the common flavour is of modest dwellings of moderately traditional form. No attempt appears to have been made to reflect a more traditional form. Nor conversely has there been an attempt at a more radical approach, instead this has the appearance of generic design of a scale and massing more appropriate to a town centre than the fringes as we are here.

Affordable Housing: Comment

Reference is made to the Design & Access Statement (22/04/14) which states that the viability of the project is marginal and that the '...inclusion of affordable housing would make the whole project unviable' (para10.3, page 10), and identify that a viability appraisal has not been provided for assessment.

Coal Authority: Comment

The Coal Authority considers that the content and conclusions of the Desk Study & Initial Site Assessment Report are sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development. However, further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent Building Regulations application.

Shropshire Fire Service: Comment

Advise that as part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications".

Neighbours

Seven neighbour representations objecting to the scheme have been received (two households have made representation twice), raising the following summarised issues:

- Design - height of the flats 3 storey and much higher than the surrounding properties which include bungalows leading to overlooking, loss of privacy and light issues, need for garage questioned and would mean sitting room not required on 1st floor, questioned whether land being higher has been addressed
- Density of the housing - problems with noise, traffic and parking with insufficient parking spaces for the number of residents and visitors, without parking restrictions on Balls Hill access issues for existing properties
- Tree planting – will lead to future shade over living accommodation

- Potential access issues – Heath Hill a busy road
- Devalue property
- Need - necessity of such a number of housing in this particular area questioned with the major housing developments just down the road (towards the M54) from the site
- Loss of TPO trees – screening, wildlife value, need for replacement and time to grow
- Site notice not on display - statutory legal requirement
- Lack of neighbour consultation – not notified as a resident who has made previous comments
- Questioned whether a wildlife study including bats has been done.

PLANNING CONSIDERATIONS:

Principle:

The spatial distribution of new homes in the Borough is defined in the Core Strategy. Telford is identified as the location for the overwhelming majority of new homes, with a further emphasis on new housing development being in locations highly accessible to District Centres as defined in policy CS5. The application site is located approximately 500 metres to the northwest of Dawley District Centre benefiting from a range of facilities and services. This location represents a contributing factor as to the acceptability of residential development on the site through the latter planning applications. Further, the previous applications were considered acceptable by reason that subject to the provision of a contribution towards education and leisure use, the proposed development would provide residential accommodation in accordance with the policies within the adopted Local Plan and national planning guidance.

The principle of residential development on the site has therefore been established by virtue of its latter planning history, and notably its sustainable location in accordance with national and local planning policy. Neighbours have also raised the need for the number of houses given the scale of nearby development towards the M54, there is however a housing land supply issue in the Borough to which this development in Telford as the focus for development would sit. It is therefore necessary in the determination of this application to establish how the changes through an alternative scheme sit within the context of the site, alongside the constraints of the site being appropriately addressed.

Design and density:

It is appreciated that the scheme as proposed is significantly denser than the previous scheme, and comprises a different type of layout. For clarity, the approved scheme totals 14 dwellings taking forward the 2008 permission (outline), comprising 6no. 1 bed flats in two storey blocks, a pair of 3 bed semi-detached dwellings, and 6no. 2 bed terraced houses. Of this mix, 6 units were proposed in an L-shape along around 2/3rds of the car park area fronting Heath Hill together with residents' and

visitor parking, and an access road; a row of 6 units across the width of the northern parcel and the remaining two towards the rear of the site.

The scheme as proposed comprises the 8no. 2 bedroomed apartments and 4 no. 1 bedroomed apartments in a single 2½ storey building running along the front of the site towards Heath Hill with parking to the rear and an area of landscaping either side.

The houses element of the proposal comprises 8no. detached two storey properties and two pairs of semi-detached dwellings in a U shape around a central service road. This denser position has been led by the need to ensure a deliverable and fundamentally a viable proposal; with the inclusion of providing, and indeed exceeding, the level of obligations proposed previously.

The Local Planning Authority has sought amendments to the scheme to help mitigate the impact of a higher density than previously proposed. Whilst the original formation of the mews (dwellings to the north of the development) provided a greater level of soft landscaping within the central area, this was considered to be at the expense of shallow rear gardens with a particular concern raised towards the proximity to No. 1a to the north west of the site. The design would also have led to the greater prominence of car parking within the streetscene when viewed from Balls Hill.

Properties at the entrance and centre of the site have been pulled forward, redesigned and reoriented to provide a greater separation to the neighbouring property to minimise any resulting loss of privacy, markedly the previous scheme ran the full extent of the site frontage of Balls Hill. Further, no 1st floor bedroom windows are proposed on the rear elevations to minimise any loss of privacy arising, a condition would also be imposed to ensure all bathroom windows are obscurely glazed and any openings are top hung only along the boundary with No. 1a. Revisions to the position of the units has also enabled the provision of rear gardens, to include a patio area, to be afforded of a size considered commensurate with a three bed unit in an urban location, versus a deficiency of the scheme as originally submitted. The Design & Access Statement also identifies a measure taken from the outset of the application to ensure privacy of existing neighbours, with the houses to plots 5, 6 and 7 being at an oblique angle to the dwellings of Willetts Way behind.

Amendments have been further sought to the apartment building sitting within the triangular car park area; these particularly seek to address the sizeable mass of the building. The elevational treatment has been amended significantly - broken up to affectively give the vertical appearance of 6 individual units, and of a more traditional form bearing in mind the comments of the Conservation Officer. This has been achieved through varied window treatments with arched and flat sills, inclusion of blank windows, flat and gabled dormers, different sized windows; alongside,

inclusion of different heights of plinths across elements of the building (but not others), with a similar approach proposed to eaves detailing, gabled elements (rear only), provision of chimneys, and inclusion of a Dawley band (brick course across the width of a property) across some of the units. At the submission stage, the building was proposed at the same ridge height across its extent; through amendment the height has been revised to a staggered approach across the suggested appearance of individual vertical units. Notably, the lowest point is proposed when approaching from the Heath Hill Roundabout to help reduce the prominence of the building, the height sits below the neighbouring property of the New Dwelling at the opposite end of the site.

A degree of stepping in and out is also proposed across the building. The elevations plan particularly highlights this context with either end of the building comprising a narrower element, alongside stepping in and out between each suggested vertical unit both at the front and rear. The changes made have helped break up the mass of the building and provide a more characterful form of development that will positively add to the streetscene. This is in particular contrast to the original submission which appeared to be too institutional in its form in this principally residential setting.

The revised appearance also means that the building appears to be two storey, with the 2nd floor in the roofspace with modest sized dormers versus the original design appearing more akin to a three storey building. A greater variation in the materials pallet has also been secured with a mix of brick and render and a variety of roof tiles in terms of the suggested vertical individual units. Thus whilst a block formation is required in terms of the required level of density, led by viability of development, the revised scheme is considered to be of an appropriate design quality and relates positively to its context adding to variety of house styles (age, height, materials) present in the locality.

This variation has been carried through to the elevational treatment of the proposed mews properties, these too have been redesigned to afford a more traditional form with an element of modern additions – modest balconies, carport and pergola, the approach is considered to create a sense of place whilst visually being more fitting with the context of the site.

The scheme proposes the introduction of landscaping at the east and west boundaries of the southern parcel to help soften the impact of the development, and is considered to provide a link to the treed context of the wider locality.

Non-habitable rooms like garaging and bathrooms have also been positioned facing the new trees on site to avoid shading issues.

On the basis of the above, the scheme as it stands is considered to be of an appropriate design quality and whilst it is appreciated that it remains dense in its

form, through the mitigation secured – including an expectation of quality building materials - will relate positively to its context, and fundamentally is proposed to bring forward a brownfield site to be developed in a sustainable location.

Highway Safety:

An alternative access arrangement is proposed for this scheme versus the previous approval where a formalised access through the southern parcel was proposed. The existing junction off Heath Hill is proposed to be utilised through amendments to the bell mouth and widening of the junction visibility splay, a footway along the extent of the site frontage along Balls Hill is also proposed. In order to ensure delivery of the access arrangements, a Section 106 contribution has been requested for £3,000 towards the implementation of a Traffic Regulation Order on Balls Hill and Heath Hill within the vicinity of the development, and would help address the concerns of neighbours.

Parking is proposed through a mix of garages, allocated spaces, and visitor spaces at the rear of the apartment block serving this portion of the development, and driveways serving the mews properties. The Highways Officer is satisfied as to the level of parking secured. Further conditions are requested in respect of the timing of parking being in place, and the provision of full construction detail for the offsite highways works and the required level of visibility splay, which would be taken forward. On this basis, it is considered the site can be suitably accessed and parking arrangements made in accordance with policy H6.

Ground constraints and pollution control:

The scheme is supported by the Drainage Officer subject to the imposition of conditions covering the submission of a scheme for foul and surface water, and in respect of the latter, that a reduction in the discharge rate be 30%. On this basis, it is considered that the site can be adequately drained in accordance with policy H6.

The application is accompanied by a Rotary Borehole Investigation Report, and a Desk Study & Initial Site Assessment Report, and on this basis the Coal Authority considers that the evidence submitted sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development. The Council's Environmental Health Officer is also satisfied that any potential contamination issues can be suitably controlled through a standard land contamination condition. Potential noise issues have been evidenced as not applicable through the submission of an appropriate assessment. A Slope Stability Declaration Form has also been provided and completed by a suitably competent person identifying that stability issues have been addressed through the application. On this basis, the requirements of policy H6 and other policies have been suitably addressed.

Flora and Fauna:

The site contains several trees along the rear boundary which are subject to a Tree Preservation Order. As part of developing this scheme, the condition of the trees has been assessed and the Tree Survey submitted defines that a number are in poor overall condition, low amenity value, poor branch structure, and have Bleeding Canker, and therefore removal is recommended. The screening and wildlife value of the trees raised by neighbours is appreciated, but the condition issue is critical and removal is accepted by the Arboricultural Officer. Replacement is a must and will be secured through condition. The Design & Access Statement references the type of replacement trees defined as higher amenity value, such as Japanese cherry, rowan and crab trees, with some planted along the line of the existing line with others elsewhere on the site boundary and within the mews courtyard development, further detail is required as to the exact species and their individual placement. The issue of overshadowing from new trees within the site has been raised, and can be addressed through delivery of a landscaping condition.

The consultation comments from Ecology can be addressed by conditions and an informative. A wildlife study (ecological survey) has not been undertaken for the site as referenced by a neighbour. The comments of the Ecologist advises that the site has potential for nesting wild birds to be present. The provision of nest boxes for birds and bats would be a valuable enhancement to the site, and that lighting should also be carefully controlled on the site to avoid impacts on foraging and commuting bats. A survey has therefore not been requested and enhancement / a control on the site can be provided through conditions. The Fire Service's comment shall be added as an informative.

Planning Obligations and Viability:

The acceptability of development on this site is linked to the provision of a replacement bowling green with this need outstanding. Through this planning application a contribution of £50,000 is proposed, as per the previous proposal, with an intention that the replacement bowling green would be retained within the vicinity of the White Horse; therefore it would be an acceptable alternative location to serve residents in the area.

The proposed level of housing triggers a request for 38% on site provision in accordance with policy H23. The proposed scheme cannot support any affordable housing, and this has been evidenced in a viability assessment that has been considered and confirmed as acceptable by the Council's viability officer. In this respect, specific reference is required to the £50k contribution to bowling facilities as a key consideration as to the acceptability of residential development on the site. Notably, the applicant is a local developer keen to provide development on the site which has been left vacant for a number of years. Consequently affordable housing is not pursued on the site in accordance with the NPPF.

Alongside the aforementioned replacement bowling green and Traffic Regulation Order contributions, the development will be further obliged through a S106 to provide a contribution to primary school education amounting to £34,947, no contribution is being sought for secondary education in line with pre-application discussion.

Other considerations:

In terms of other issues, a lack of a site notice has been raised, it can be confirmed that a white notice was displayed on a lamppost immediately opposite the site in accordance with the regulations. The need for garages is raised leading to the provision of a 1st floor sitting room and potential overlooking issues. In this respect, integral garages have been included to help afford an appropriate level of parking within the size constraints of the site, an amendment has therefore been sought to the window arrangement on units at the back of the site facing Willetts Way and the sitting room window removed at the rear. Property values are not considered to be a material consideration in planning.

Conclusion:

In conclusion, it is considered that the development complies with Local Plan and Core strategy policies alongside national planning policy allowing the redevelopment of a previously developed site within the urban area. The site can be adequately accessed and drained. Whilst the development will incur the loss of a number of TPO trees, this is led by an issue of disease and will be appropriately mitigated. The design of the scheme has been significantly amended to ensure the delivery of a scheme that has been evidence as viable and more fitting with its context. There will be no undue environmental impact of the development. Contributions have been negotiated towards bowling facilities, education and highway improvements. The site is sustainably located with access to a range of facilities within Dawley District Centre.

RECOMMENDATION: To GRANT delegated authority to the Manager of Development Management to GRANT PLANNING PERMISSION subject to the following:

- A.) The applicants entering into a Section 106 agreement with the Council (terms to be agreed by the Service Delivery Manager of Development Management) that includes the provision of:
 - i. £50,000 towards a replacement bowling facility
 - ii. £34,947 towards primary education
 - iii. £3,000 towards the implementation of a Traffic Regulation Order on Balls Hill and Heath Hill within the vicinity of the development
 - iv. Planning monitoring contribution

- B) The conditions below, with authority to the Service Delivery Manager of

Development Management to amend and impose additional planning conditions relating to the following:

1. A04 Time limit
2. B010 Details of Materials (incl. samples)
3. B012 Sample brick panel
4. B036 Off-site highways (details to be approved)
5. B057 Land Contamination
6. B061 Foul and surface water (incl. restricted run-off rate)
7. B120 Details of enclosure – north-eastern and south-eastern boundary land north Balls Hill
8. B121 Landscaping Design (levels)
9. B132 Trees – no dig method
10. B133 Replacement Trees
11. C13 Parking, Turning, Unloading and Loading
12. C14 Visibility Splays
13. C074 Tree Protection
14. C109 Ecology – bat and bird boxes
15. C109 Ecology - Lighting Plan
16. D08 Obscure glazing and no top opening bordering No. 1a Balls Hill
17. C38 Approved plans
18. D01 Removal of PD rights
19. DCustom Garages retained as parking spaces

Informatives

- | | |
|---------|--------------------------------|
| I06 | S106 Agreement |
| I11 | Highways |
| I17b | Coal Authority Standing Advice |
| I32 | Fire Authority |
| I35 | Ecology – Birds |
| I35 | Highways Legal Agreement |
| I40 | Conditions |
| I41 | Reason for Approval |
| RANPPF1 | Approval - NPPF |

TELFORD & WREKIN COUNCIL

PLANNING COMMITTEE – 23 JULY 2014

TREE PRESERVATION ORDER 2014

**REPORT OF THE ASSISTANT DIRECTOR: LAW, DEMOCRACY AND
PEOPLE SERVICES**

1.0 PURPOSE

- 1.1 To inform Members of the making of a provisional Tree Preservation Order (TPO) and to seek its confirmation.

2.0 RECOMMENDATIONS

It is recommended that Members resolve to confirm the following Order without modification:-

Borough of Telford & Wrekin (Oak tree to the South of; St Michaels Church, Waters Upton, Telford, Shropshire) Tree Preservation Order 2014

3.0 SUMMARY

- 3.1 On 21 March April 2014 a provisional Tree Preservation Order was made in respect of one Oak Tree (identified as T1 on the appended map – **Appendix 1**) to the South of St Michaels Church, Waters Upton, Telford, Shropshire.
- 3.2 On 17 April 2014 an objection to the TPO was received from the owner of the property in respect of the tree (T1).

4.0 PREVIOUS MINUTES

- 4.1 None.

5.0 INFORMATION

- 5.1 Details of Objection

A copy of the letter of objection and supporting documentation is attached to this report as **Appendix 2**.

5.2 Response of Arboricultural Officer

The response of the Arboricultural officer is attached as **Appendix 3**.

It should also be noted that the tree has been classified as a Veteran Oak by an independent tree survey.

6.0 EQUALITY & DIVERSITY

6.1 Not applicable.

7.0 ENVIRONMENTAL IMPACT

7.1 The amenity value of the trees outweighs any reasons given for their removal.

8.0 LEGAL COMMENT

8.1 A Tree Preservation Order is made under the powers conferred on the Borough of Telford & Wrekin by Sections 198, 201 and 203 of the Town and Country Planning Act 1990. A Local Planning Authority may preserve trees or woodlands if it thinks it is expedient in the interests of amenity to do so.

8.2 The Tree Preservation Order does not preclude necessary lopping or pruning. However, it would be necessary for the Council to consent before any such work was undertaken.

8.3 Should an application be received for consent to fell any protected tree(s), conditions could be imposed to secure the replanting of suitable replacement trees.

8.4 Before confirming an Order the Council must first consider any objections which have not been withdrawn.

8.5 Should an application be received for consent to fell any protected tree(s), conditions could be imposed to secure the replanting of suitable replacement trees.

9.0 LINKS WITH CORPORATE PRIORITIES

9.1 The making of Tree Preservation Orders is an important element in the Council's priority of ensuring a sustainable environment.

10.0 FINANCIAL IMPLICATIONS

10.1 There are no financial implications for the Council.

11.0 WARD IMPLICATIONS

Ercall Magna

12.0 BACKGROUND PAPERS

- 12.1 Borough of Telford & Wrekin (Oak tree to the South of; St Michaels Church, Waters Upton, Telford, Shropshire) Tree Preservation Order 2014.

**For further information, please contact Ian Ross – (Team Leader Places) or Eileen Griffin – (Solicitor) on 01952 383255.
ian.ross@telford.gov.uk or Eileen.griffin@telford.gov.uk**

Town and Country Planning Act 1990
Borough of Telford & Wrekin
(Oak tree to the South of;
St Michaels Church, Waters Upton, Telford, Shropshire)
Tree Preservation Order 2014

Borough of Telford & Wrekin, in exercise of the powers conferred on them by sections 198, 201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as the Borough of Telford & Wrekin (Oak tree to the South of; St Michaels Church, Waters Upton, Telford, Shropshire) Tree Preservation Order 2014.

Interpretation

2. In this Order "the authority" means the Borough of Telford & Wrekin and unless context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on **21st March 2014**.

Prohibited acts in relation to trees

4. Without prejudice to subsection (6) and (7) of section 198 (power to make tree preservation orders) and subject to article 5, no person shall:-
 - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

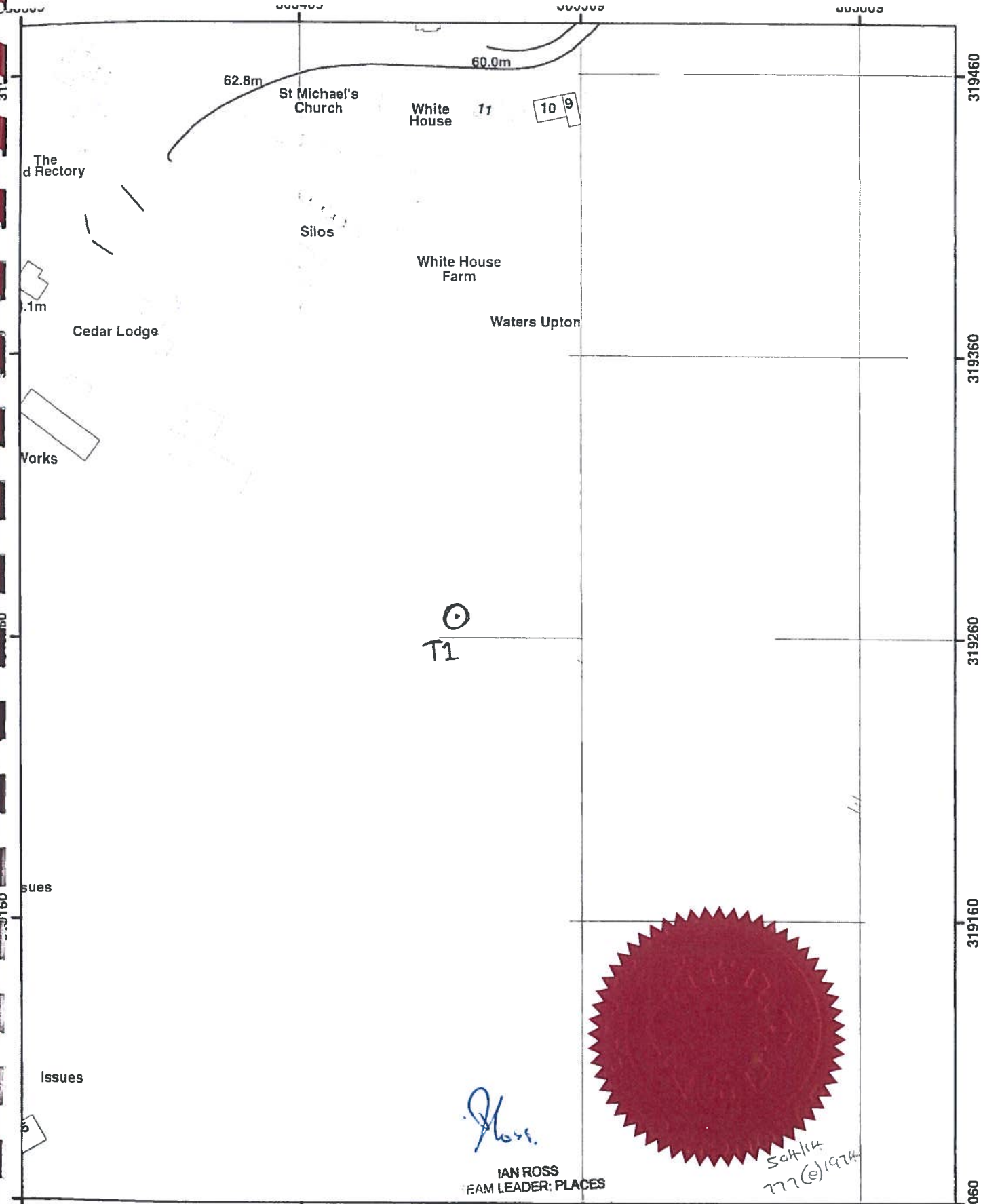
any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.


Exemptions

5. (1) Nothing in article 4 shall prevent:-
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree

is situated in operation land of the statutory undertaker and the work is necessary:-

- (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
 - (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as the Land Drainage Act 1991; or



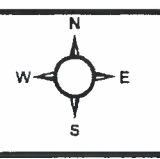

Telford & Wrekin
 Environmental Maintenance
 Granville House
 St Georges Road
 Telford
 TF2 7RA

Title: Oak tree to the south of;
St Michael's Church
Waters Upton
Telford
Shropshire

Scale:
1:1,750

Date:
 21/3/2014

Drawn By: G. Onions



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- (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.
- (2) In paragraph (1), "statutory undertaker" means any of the following:-
- a person authorised by an enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
 - a relevant airport operator (within the meaning of Part V of the Airports Act 1986.
 - the holder of a licence under section 6 of the Electricity Act 1989,
 - a public gas transporter.
 - the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act is applied,
 - a water or sewerage undertaker,
 - the Civil Aviation authority or a body acting on behalf of that Authority,
 - the Post Office.

Application of provisions of the Town and Country Planning Act 1990

6. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

7. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

- (3) A direction under paragraph (1) may include requirements as to:
- (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting, and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

8. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-
- (a) the refusal of any consent required under this Order; or
 - (b) the grant of any such consent subject to conditions,
- he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article:-
- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
 - (b) if the amount in respect of which the claim would otherwise have been made is less than £500
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal
- (4) In any other case, no compensation shall be payable to a person:-
- (a) for loss of development value or other diminution in the value of the land;
 - (b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
 - (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.
- (5) Subsections (3) and (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article:-

“development value” means an increase in value attributable to the prospect of development; and in relation to any land, the development of it shall include the clearing of it; and

“owner” has the meaning given to it by section 34 of the Forestry Act 1967

Dated this 21st day of March 2014

**THE COMMON SEAL OF BOROUGH)
OF TELFORD & WREKIN was)
hereunto affixed in the presence of:-)**



I. Ross

*503/14
m@1974*

IAN ROSS
TEAM LEADER: PLACES

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
T1	Oak	To the South of St Michaels Church, Waters Upton, Telford, Shropshire.

TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on the map)

Reference on map	Description	Situation

PART I

Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1) -</p> <p>(i) omit ", in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed"; and</p> <p>(ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p>(b) In subsection (2)</p> <p>(i) after "contain" insert ", as regards each such order"; and</p> <p>(ii) for paragraphs (a) and (b) substitute "(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it."</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 70 (determination of applications general considerations):</p>	<p>In subsection (1)</p> <p>(i) substitute</p> <p>"Subject to subsections (I A) and (I B), where" for "Where";</p> <p>"the authority" for "a local planning authority";</p> <p>"consent under a tree preservation order" for "planning permission" where those words first appear; and</p> <p>"consent under the order" for "planning permission" in both of the other places where those words appear;</p> <p>(ii) after "think fit", insert</p> <p>"(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and</p> <p>(iii) omit "subject to sections 91 and 92,".</p> <p>(b) After subsection (1) insert -</p> <p>"(IA) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(IB) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).".</p> <p>(c) Omit subsections (2) and (3).</p>
<p>Section 75 (effect of planning permission)</p>	<p>(a) In subsection (1) substitute-</p> <p>(i) "Any" for the words from "Without" to "any";</p> <p>(ii) "consent under a tree preservation order" for "planning permission to develop land";</p> <p>(iii) "the consent" for "the permission"; and</p> <p>(iv) "the land to which the order relates" for "the land".</p> <p>(b) Omit subsections (2) and (3).</p>

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(a) In subsection (1) substitute-</p> <ul style="list-style-type: none"> (i) "the authority" for "a local planning authority"; (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear; (iii) "consent under such an order" for "planning permission" in the second place where those words appear; (iv) for paragraph (c) substitute – <ul style="list-style-type: none"> "(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority," <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute "in writing addressed to the Secretary of State' specifying the grounds on which the appeal is made; and such notice shall be served</p> <ul style="list-style-type: none"> (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow. (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant." <p>(d) For subsection (4), substitute "(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)."</p> <p>(e) For subsection (5), substitute "(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question."</p>

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 79 (determination of appeals)(a)	<p>(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute (i) "section 70(1), (I A) and (I B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5", (ii) "consent under a tree preservation order" for "planning permission"; and (iii) "the authority." for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.".</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after "section 78".</p>

PART II

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

.....
- (5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (IA) and (I B), where an application is made to the authority for consent under a tree preservation order

(a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or

(b) they may refuse consent under the order.

(IA) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(IB) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

.....

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

.....

Section 78

(1) Where the authority

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

.....

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an

Town and Country Planning (Tree Preservation)(England) Regulations 2012

Regulation 6

Objections and representations

6.--(1) Subject to paragraph (2), objections and representations-

(a) shall be made in writing and

(i) delivered to the authority not later than the date specified by them under regulation 5(2)(c). or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

Town and Country Planning (Trees) Regulations 1999 (as amended)

"PART 4 APPEALS

Application of Part 4 and interpretation

11.—(1) This Part applies in relation to every appeal—

- (a) under section 78 as applied to applications under orders ("a tree preservation order appeal"); or
- (b) against a notice served under section 207(1) ("a tree replacement notice appeal"),

which is to be disposed of without a hearing or inquiry to which rules under section 9 (procedure in connection with statutory inquiries) of the Tribunals and Inquiries Act 1992(3) apply, where that appeal is made on or after the date on which these Regulations come into force.

(2) In this Part—

"appointed person" means a person appointed by the Secretary of State under Schedule 6 to the Town and Country Planning Act 1990 to determine an appeal;

"parties" in relation to an appeal, means the appellant and the relevant authority;

"preliminary information" means the documents supplied by the relevant authority in accordance with regulation 13;

"questionnaire" means a document in the form supplied by the Secretary of State for the purposes of this Part;

"relevant authority" in relation to an appeal, means the local planning authority that made the decision (including any failure to determine the application) or served the notice which is the subject of the appeal.

Notice of appeal

12. The appellant shall, at the same time as he gives written notice to the Secretary of State of a tree preservation order appeal or a tree replacement notice appeal, send to the relevant authority a copy of the notice of appeal.

Preliminary information

13. The relevant authority shall, as soon as practicable after receiving notification of an appeal, send copies of the following to the Secretary of State—

(a) in the case of a tree preservation order appeal—

- (i) the application for consent, where relevant;
- (ii) the decision of the relevant authority, if any, including any condition, certificate or direction made by the authority in relation to the decision.

(b) in the case of a tree replacement notice appeal—

- (i) the notice issued under section 207(1);
- (ii) where the notice has been issued following a failure to plant replacement trees under a condition of consent, the original application and consent;
- (iii) where the notice has been issued as a result of the breach of an order under section 206(1)(a) (removal, uprooting or destruction of tree in contravention of tree preservation order), the date of that breach, if not included in the notice;
- (iv) where the notice has been issued as a result of a failure to replace a protected tree removed under the exemption in section 206(1)(b) (dying, dead or dangerous trees), the date of the alleged failure, if not included in the notice.

Questionnaire

14.—(1) The Secretary of State shall, as soon as practicable after receipt of the preliminary information, supply a questionnaire to the relevant authority.

(2) The relevant authority shall, within such period as the Secretary of State may specify in writing, being not less than 21 days from the date on which the questionnaire was supplied, submit to her and copy to the appellant a completed questionnaire.

(3) The questionnaire shall state the date on which it is submitted to the Secretary of State.

Further information

15.—(1) The Secretary of State or the appointed person (as the case may be) may in writing require the parties to provide such further information, including any representations, relevant to the appeal as she may specify.

(2) Such information must be provided in writing within such period as the Secretary of State or the appointed person may specify.

Decision

16. Where under regulation 15 information is required to be provided within a specified period, the Secretary of State or the appointed person (as the case may be) may proceed to a decision on an appeal taking into account only such information as has been submitted within the specified period.

Electronic communications

17. Where an appeal is made using electronic communications, the appellant shall be taken to have agreed—

(a) to the use of such communications by the Secretary of State for the purposes of his appeal;

(b) that his address for that purpose is the address incorporated into, or otherwise logically associated with, his appeal; and

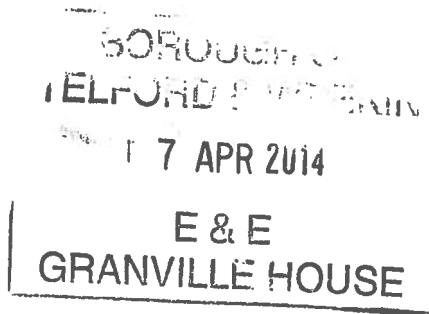
(c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing—

(i) withdrawing any address notified to the Secretary of State for that purpose; or

(ii) revoking that deemed agreement,

and such withdrawal or revocation shall be final and shall take effect on the date specified by the person in the notice being not less than seven days after the date on which the notice is given.”.

LEASOWES FARM
CRUDGINGTON
TELFORD TF6 6JN
4th April 2014



Dear Sir/Madam

I wish to make a Formal Objection to the Tree Preservation Order on an Oak Tree on the land South of St Michaels Church Waters Upton (504/14 777(e) 1974 dated 21st March 2014.

Our Land Agent drew our attention to the state of some sycamore trees along the public footpath at Waters Upton and said we had a duty of care to have these surveyed under Local Government Miscellaneous Act.

We immediately contacted the local company Access 2 Trees Owner Mr James Plaskett ARB (RES) Specialist Tree Surgeons to get advice and guidance we were advised to remove them at our very earliest convenience as they were very very dangerous to people using the Public Footpath.

He then contacted your Mr Gavin Onions and was given permission to fell these dangerous trees as soon as possible (Fortunately we were able to do this as a priority before the very high winds we have experienced this winter without mishap).

This has no doubt drawn attention to the oak tree that has been there for many years without any problems and it seems the public are just reacting to change without any understanding about what had to be done. This is why YOU have been asked to put a Tree Preservation Order on this tree.

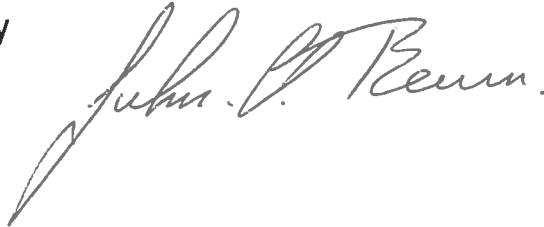
During the past 15 years we have planted and managed over 50 acres of New Woodland on our Estate and appreciate the value of trees more than most.

To summarise we feel that this Tree Preservation Order is unnecessary and wish to have a very good explanation for it being approved.

It seems that people who enjoy what we do in our countryside only see one side of the story. We felled the sycamore trees to protect the public but it seems the more we do to protect people the more legislation is put in our way. We were only carrying out our due diligence of care.

Instead of saying Thank you for leaving this tree and improving their safe use of the footpath all YOU GET are complaints from people who do not understand the whole picture therefore we **OBJECT TO YOUR PROPOSED TREE PRESERVATION ORDER.**

Yours faithfully

A handwritten signature in cursive script that reads "John P. Brown". The signature is written in dark ink and is positioned to the right of the typed name "J.A BROWN".

J.A BROWN

=



Telford & Wrekin
COUNCIL

Jonathan Rowe Assistant Director of Neighbourhood & Leisure Services

Mr J.A. Brown
Leasowes Farm
Crudgington
Telford
TF6 6JN

Leisure, Culture & Libraries
Granville House
St George's Road
Donnington Wood
Telford
TF2 7RA
DX: 712121 Telford 5

Contact Name: G.Onions
Your Ref:

Telephone: 01952 384384
Our Ref: TPO119

Fax: 01952 384701
Date: 1st of May 2014

Dear Mr Brown,

In reference to your letter dated the 4th of April 2014. The 'duty of care' is with regard to the Owners and Occupiers Liability (1957 and 1984) and not the Local Government Miscellaneous Provisions Act.

I was contacted by James Plaskett about the removal of the three Sycamore trees growing by the work shops/ barns in the field in question, no permission was required as they were not subject to any legislation. These were the only trees discussed in our telephone conversation.

The Tree Preservation Order was made in response to a planning enquiry which proposed to construct 126 dwellings on the land surrounding the tree. I received the proposed site plan and made a site visit to find that the majority of trees on the site had been cut down.

Given the age of the Oak tree and its stature within the landscape, the Tree Preservation will ensure that it is paid due diligence throughout the planning process. It can then continue to be a feature of the landscape and possible street scene providing amenity to any prospective new home owners for many generations to come.

Yours faithfully

Gavin Onions
Tree & Woodland Officer