



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

### Main Modifications consultation

1 June 2015 – 13 July 2015

For Shropshire  
Council use

Respondent  
no:

### Main Modifications Consultation Form

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

#### Submitting comments:

Please fill in this form and return:

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

Shropshire Council SAMDev Plan Main Modifications Response Form

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

**A) Your details:**

**1) Who is making this representation?**

Name:	KATE CLARKE
Organisation (if applicable):	HOOOH
Address:	
Email:	
Telephone:	

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

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

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

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

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

Main Modification reference - MM: 163

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

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

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

Continue on a separate sheet if necessary

See text that runs below.....

**MM 163 is not legally sound because.....**

**a) The Inspector provided no explanation to the public at the Inquiry as to why the Statement of Common Ground (SoCG) is legally sound and appropriate before she decided to apply the amendments within it to MM163. The modifications are objected to on the basis that this is the first material change to the plan**

**reflecting the SoCG which is open to public consultation, and since the public was excluded from the consultation process leading to the SoCG, we do not accept that it is legal or acceptable as part of the place-making process of SAMDev.**

**b) Also for this reason, the Inspector should not have given any weight to the SoCG. We object to the modifications to OSW004 as they are based on a SoCG which we believe to have been improperly reached making inclusion of the site not legal. Since the elements relating to MM163 are part of a plan-wide SoCG, it potentially makes SAMDev as a whole also not legal.**

**c) The SoCG says in Appendix 3 regarding OSW004:**

**“If the Council considers the site is justified by the evidence base it has and the Planning Inspector is minded to include Site OSW004 within the adopted SAMDev Local Plan, then we would seek the following modifications to ensure the impacts to the significance of the Hillfort are minimised and enhancement opportunities are secured.”**

**This is equivalent to a disclaimer by English Heritage and suggests a lack of confidence or of certainty in the evidence base for OSW004. How can they state modifications will be required to a development to make it acceptable when they have not fully endorsed or accepted the evidence base? For this reason, we object to the modification to MM 163 as it is based on an SoCG in which EH cites conditions of approval to minimise impacts that rely on an evidence base it has not expressly underwritten and which it assumes is justified.**

**MM 163 is not positively prepared because.....**

**a) Within actions agreed under section 3.10 of the SoCG it says: ‘It should be noted that these (the representations) only concern the removal of sites OSW002 and OSW003 from the Final Plan. As OSW004 is proposed for allocation, the site promoters had not made a representation on this.’**

**Here the SoCG is referring to the fact that the site promoter has not made a representation on OSW004. Therefore this accepts that justification for OSW004 remains tied to the original Oldport Masterplan coordinated with sites OSW002 and OSW003 which have been removed. This means that OSW004 is being offered up as sound based on an evidence base that was only applicable when all three sites were being promoted.**

**b) The planning description for OSW004 within MM163 is inappropriate as it does not adequately constrain what the master plan could potentially deliver. It states: ‘Development should demonstrate appropriate regard to the significance and setting of the Old Oswestry hillfort.’ To impose any degree of constraint the word ‘should’ must be replaced by ‘will’. Also, it cannot be legal to include policy wording that**

**accepts approval for development that will have heritage impacts without defining ‘appropriate regard’.**

**c) The implied sense of the following wording is unacceptable and illogical where it states: ‘To inform the layout of the site, a full archaeological assessment is required to.....’ This assumes that the outcome of a full archaeological assessment will only affect the layout of the development, and does not make account for the possibility of consequences from a major archaeological find that could prevent any sort of development, or would restrict the footprint of the site allocation such that OSW004 would not be able to deliver the housing numbers expected and claimed public benefits of access towards the hillfort. It would therefore be unsustainable.**

**d) MM163 says ‘development to be subject to links.....to improve access towards the hillfort.’ This will not improve access to the hillfort, but will be a dead end, as there will be no associated right of access to the hillfort at its eastern side since the previous sites that would have offered this have been removed from SAMDev. In addition, English Heritage had never been consulted or had they approved the move to create new access to the fort at its Eastern entrance.**

**MM 163 is not effective because:**

**It is not based on effective joint working on cross-boundary priorities as it goes against the express wishes of cross-boundary stakeholders Oswestry Town Council and Selattyn and Gobowen Parish Council who have both objected to OSW004 and wish it to be removed from the plan.**

**MM 163 is not consistent with national policy because.....**

**a) Although the Inspector’s modification, which reflects the SoCG, makes development subject to a range of conditions, it is still not satisfactory. It does not recognise and does not proportionately reflect the status of Old Oswestry as a site of national and, in fact, international significance. The LPA and the Inspector cannot themselves judge the significance of the hillfort; it can only be evidenced in terms of, but not solely on, any legal scheduling or protection, as well as on the testimony of qualified experts including the state’s historic asset advisers, English Heritage, and archaeological academia. English Heritage has made two statements of significance\* for Old Oswestry, which clearly state its national importance and significance of its surrounding setting and landscape.**

**\*In its July 2013 Revised Preferred Options Response & in Appendix 3 of Statement of Common Ground October 2014.**

**The Inspector was also in receipt at the Inquiry of a letter signed by 12 eminent academics of archaeology, including some who are also members of the Royal Society, providing testimony of Old Oswestry's significance. This should have been accepted as contributory and qualifying evidence of significance as there is nothing to legally justify excluding consideration of it.**

**As a result of this, the Inspector's modification should have been to strike MM163 from the plan.**

**b) Shropshire Council failed to properly reflect Old Oswestry's significance in assessing it against NPPF para 126 which means that MM163 should be struck from the plan.**

**Paragraph 126 states:**

**'Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:**

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;**
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;**
- the desirability of new development making a positive contribution to local character and distinctiveness; and**
- opportunities to draw on the contribution made by the historic environment to the character of a place.**

**The Inspector's modification still accepts that some form of development at OSW004 is sound when a fair evaluation of its significance against NPPF para 126 should have meant it was not even included in the plan at preferred options stage.**

**This means that OSW004 should be struck from the plan for it to be sound.**

**ENDs**

- 4) Please set out what change(s) you consider necessary to make the SAMDev Main Modification legally compliant and/or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

Please remove OSWOO4/MM 163 to make plan sound.

Continue on a separate sheet if necessary.

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

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

**You can e-mail it to:**

[Programme.officer@shropshire.gov.uk](mailto:Programme.officer@shropshire.gov.uk)

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

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