

**APRIL 2014**

**IN RELATION TO THE SHREWSBURY WEST SUSTAINABLE URBAN EXTENSION  
(SWSUE)**

**THE SHREWSBURY WEST RESIDENTS ASSOCIATION**

**MAKE THE FOLLOWING**

**REQUESTS TO THE SECRETARY OF STATE:**

**A. REQUEST FOR A SCREENING DIRECTION UNDER REGULATION 4(8) OF THE TOWN & COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011, WITH REGARD TO SHROPSHIRE COUNCIL PLANNING REF: 13/00265/SCR.**

**AND**

**B. REQUEST FOR AN ARTICLE 14 DIRECTION UNDER THE TOWN & COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995, WITH REGARD TO SHROPSHIRE COUNCIL PLANNING REF: 14/00246/OUT.**

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**SHREWSBURY WEST RESIDENTS ASSOCIATION - ABOUT US**

Shrewsbury West Residents Association (SWRA) is registered as a stakeholder group with Shropshire Council. We are a group of local residents who felt compelled to come together over serious concerns about the proposed developments along the west side of Shrewsbury, particularly the SWSUE (Planning Application Reference Number 14/00246/OUT, the 'Scheme').

The main driving force behind the group is the lack of effective public consultation and awareness over the scale and impact of the development. By the time that the proposals appeared on the front of the local newspaper in July 2013, residents felt disempowered because the development was already being presented as a fait accompli.

The purpose of SWRA in respect of its interest in the Scheme is to ensure proper assessment of the acceptability, deliverability, viability and sustainability of the SWSUE and to consider cumulative effects with other developments in the area.

We accept that development may have to take place to meet objectively assessed local housing demands. However we believe that the local community should have been engaged at an earlier stage when their opinions could have made a difference.

Ultimately, our aim is to ensure that if this development does proceed, it is as sustainable and of as high quality as possible. We seek to ensure that the Scheme has been subject to appropriate environmental assessment (in this case, in our view, statutory Environmental Impact Assessment (EIA) as 'Schedule 2 EIA Development'). To this end the impact on the environment is a prime consideration of our group. In addition we also seek to ensure that appropriate consideration and provision is made for health, schooling and recreation and that this has been undertaken with a collaborative approach.

We seek to ensure that all decisions are made in an open and transparent way. However we feel this has not happened, and the scheme has been driven forward because of the Council's aspiration to have the North West Relief Road (NWRR), and everything else has come secondary to this.

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## **INTRODUCTION**

1. Shropshire Council adopted its Core Strategy in March 2011, and **CS2 identifies land at 'Bicton Heath and off Welshpool Road'** to incorporate major housing development (approximately 700 dwellings) and additional employment land (approximately 9-12 hectares) and now referred to as the SWSUE.

2. **A prerequisite** of suitability for this urban extension was the ability for the scheme to be able to deliver a Link Road connecting Churncote Island on the A5 to Holyhead Road to future proof a Shropshire Council aspiration to have a **North West Relief Road (NWRR)**. Enhancement of Park and Ride facilities was also included.

3. Shropshire Council is currently at the 'Site Allocations and Management of Development (SAMDev) Plan, Pre-Submission Draft (Final Plan) stage, which went out to consultation on the 17<sup>th</sup> March 2014.

4. The SWSUE has a first phase outline planning application (**14/00246/OUT**) under consideration with a determination date of 22<sup>nd</sup> April 2014. That application is described as:

***“Outline application for mixed residential (landscaping reserved) and employment/commercial use (all matters reserved) to include petrol station, showroom, A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure, vehicular accesses and provision of Oxon Link Road; all associated infrastructure.”***

**A. REQUEST FOR A SCREENING DIRECTION UNDER REGULATION 4(8) OF THE TOWN & COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011, WITH REGARD TO SHROPSHIRE COUNCIL PLANNING REF: 13/00265/SCR.**

5. A formal request for a **screening opinion** was submitted to Shropshire council on 3<sup>rd</sup> January 2013 by the developer's agent RPS. In their appraisal they determined that although the Scheme was a Schedule 2 project (being over 0.5ha), under the selection criteria in Schedule 3 it did not need a statutory Environmental Impact Assessment (EIA).

6. Shropshire Council (LPA) agreed with this assessment and issued a letter (a formal EIA Screening Opinion) to that effect on 20<sup>th</sup> February 2013 saying that although the **project exceeded the threshold requirements**, it was considered that the proposed development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location (the ultimate test for the need for EIA for Schedule 2 projects).

7. It confirmed the **indicative thresholds** set out in Annex A to (the now repealed) Circular 02/99 for urban development projects that have not been previously intensively developed to require an EIA if:

- a) Site exceeds 5 hectares;
- b) More than 10,000m<sup>2</sup> of new commercial floorspace;
- c) Would have significant urbanising effect in previously non, urbanised

area (e.g. a new development of more than 1,000 dwellings).

8. Although the site **exceeds 5 hectares** and appears to be greenfield land, the **LPA decided** that as it adjoins the existing built up area, is significantly lower than the indicative criteria of 1,000 dwellings and 10,000sqm of commercial floor space then an **EIA is not required**. This was based on criteria in Circular 02/99 which was extant at the time of the issue of the EIA Screening Opinion.

9. The EIA Screening Opinion letter from the LPA also mentions that detailed technical studies will be submitted on a range of environmental issues with the application, that the Environment Agency do not consider an EIA is required, and should any details of the proposed development change, or new information come to light, then an Environmental Statement may be necessary. The final sentence advises that **“Under Regulation 4(8) any person has the right to seek a screening direction from the Secretary of State should they disagree with the Screening Opinion”**. This is relevant because the judgement on whether EIA is required can be a difficult one. The UK courts, the SoSCLG and planning inspectors regularly find cause to overrule LPA Screening Opinions, often on application by a third party for a EIA Screening Direction process.

Moreover, the view of just one of the four statutory consultees (SCs) to the EIA screening process is not determinative on the LPA as EIA Competent Authority (CA). The CA need to obtain the views of all four SCs and a range of other parties ('non-statutory consultees', NSCs) before issuing an opinion and can, indeed, require EIA for a scheme for which none of the SCs/NSCs have requested an EIA for.

#### 10. **GROUNDINGS FOR SEEKING A SCREENING DIRECTION FROM SoSCLG**

The LPA do not appear to have followed the guiding principle in EIA Screening, that of the ultimate test: would the Scheme give rise to significant environmental effects?

The lettered paragraphs below outline our concerns over the information relied upon, and interpretations made thereof, by the LPA (as the CA) in reaching their EIA Screening Opinion for the Scheme.

Of particular note, the recent adoption/formalisation of the DCLG National Planning Practice Guidance (NPPG, which supports the NPPF) has resulted in

the revocation of a range of previously extant central government policy and guidance on planning. In relation to EIA, the following DCLG policy/guidance has been revoked:

- Circular 02/99 (1999)
- EIA Guide to Procedures (2000)
- Note on EIA Directive for LPAs (2004)
- Letter to CPOs – EIA Implications of Recent Judgements (2009).

All extant DCLG EIA policy and guidance is now, therefore, contained in the NPPG. However, the guidance in the NPPG is now so limited on EIA screening that most professional practitioners feel the need to refer to the detail in DETR Circular 02/99. We have been advised to do the same by a professional Chartered Planner (MRTPI) and Chartered Environmentalist (CEnv) with over 20 years' experience in EIA, full MIEMA status and a Master's Degree in EIA.

a) DETR Circular 02/99 provides advice on screening Schedule 2 Development and paragraph 33 advises that:

***“In general, EIA will be needed for Schedule 2 developments in three main types of case a) for major developments which are of more than local importance (paragraph 35); b) for developments which are proposed for particularly environmentally sensitive or vulnerable locations (paragraphs 36-40); and c) for developments with unusually complex and potentially hazardous environmental effects (paragraphs 41-42)”.***

The proposed development meets a number of the stipulations in Paragraph 35 of the Circular, being a large urban extension and considered to be a “major development which is of more than local importance”. Moreover, the scale of the proposed development is sufficient for it to have “wide-ranging environmental effects that would justify EIA”.

Paragraphs 43 to 44 of the Circular discuss indicative criteria and thresholds. They emphasise that indicative criteria and thresholds cannot provide a universal test and that screening must be considered on a case-by-case basis. However, indicative criteria and thresholds offer a broad indication of the type or scale of development which is likely to be a candidate for EIA and, conversely, an indication of the sort of development for which EIA is unlikely to be necessary. Consequently, for each category of Schedule 2 Development,

Annex A to the Circular lists criteria and thresholds which indicate the types of case in which, in the Secretary of State's view, EIA is more likely to be required.

Crucially, Paragraph 44 warns that it ***should not be presumed that developments falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location.*** Equally, developments which exceed the thresholds will not in every case require EIA. As in the 2011 Regulations, the fundamental test to be applied in each case is whether that particular type of development and its specific impacts are likely, in that particular location, to result in ***significant effects on the environment.*** Application of the precautionary principle means that unless the decision-maker can exclude on the basis of objective evidence any real possibility of the effects being significant, an EIA is required.

Paragraph A19 of Annex A to the Circular states, in relation to greenfield urban development projects that

“Development proposed for sites which have not previously been intensively developed are more likely to require EIA if a) the site area of the scheme is more than 5 hectares; b) or it would provide a total of more than 10,000 m<sup>2</sup> of new commercial floorspace; or c) the development would have significant urbanising effects in a previously non, urbanised area (e.g. a new development of more than 1,000 dwellings)”.

Although the Circular 02/99 thresholds are only indicative (and now, in theory, revoked), they are still helpful. The Scheme agent's letter and subsequent information states that the commercial floorspace will be approximately 9,800m<sup>2</sup> and the dwellings 750. The former is hardly 'significantly' below the C02/99 indicative threshold of 10,000m<sup>2</sup>, and the latter 750 dwellings hardly significantly below the C02/99 indicative threshold of 1,000 dwellings. In addition to this, there are a further 279 houses coming forward in the immediate area in 2014:

<b><i>Shelton Hospital – houses and apartments scheduled 2014</i></b>	<b><i>220</i></b>
<b><i>Corner Farm Drive, Bicton (13/02423/FUL)</i></b>	<b><i>26</i></b>
<b><i>Ingleby Way – submitted March 2014</i></b>	<b><i>27</i></b>
<b><i>Shepherds Lane – submitted March 2014</i></b>	<b><i><u>6</u></i></b>
<b><i>TOTAL</i></b>	<b><i><u>279</u></i></b>

Again, the proposed development meets a number of the stipulations in Paragraph A19 of the Circular, being a large urban extension of 23.8 hectares considered to have a significant urbanising effect in a previously non-urbanised area. As previously, the caveats in Paragraph 44 apply.

Overall, the area/number of proposed development is very close to the indicative threshold limits. The combination of both use-class elements in the Scheme make the case for EIA even stronger. In addition, no consideration has been given to the **cumulation with other residential and/or commercial developments** in the vicinity. The Core Strategy sets a target of 6,500 new homes in the Shrewsbury area!

- b) At the time of the issue of the Scheme's EIA Screening Opinion, the **Park & Ride was to be relocated** immediately adjacent to the A5. This is no longer the case, and the area beside the A5 is now proposed to accommodate a **hotel, 2 office blocks, and associated parking**. This is a **significant change**. The proposed relocated Park & Ride was to have provided a total of 600 parking spaces, whereas the current one provides just 440 spaces. **The prevalent wind direction (see RPS Air Quality Report Appendix) is in a South Westerly direction** and this would put the proposed SWSUE housing development directly **along the pollutant dispersal route** from the existing Park & Ride area, whereas a relocated Park & Ride would have had a dispersal area away from the proposed residential area.

No details were provided of the proposed Oxon Link Road or the highway links at the Churncote Island on the A5, or the nature of the proposed employment uses adjacent to the A5, which we now know will include a petrol/service station amongst other things. This all has the potential for considerable **pollution and nuisance** activity which can impact on **people's health**.

- c) The highway link at the Churncote Island has yet to be agreed with the Highways Agency. Currently a 4 arm roundabout, the HA are not happy with a 5 arm roundabout, and indications are that some elaborate slip road with signal lights may be required. This area is currently undergoing essential safety improvement work as part of the 'pinch-point' program which is to improve the flow of traffic and reduce accidents. This scheme would completely change the driving experience on and around the Churncote Island and significantly **increases the risk of accidents**.

- d) The **existing land use** is greenfield and the Environment Agency have advised that the site is sensitive in terms of controlled water. The standing water on the site suggests there are concerns over the **absorption capacity**, and this is also an area of cultural and leisure importance to existing residents who also receive many **health benefits** from the open space. SUDS methods proposed to deal with this issue include **‘open swales’ adjacent to a childrens play area!** The Town Council have raised concerns on this point.

Shropshire Council’s Planning Ecologist raises concerns, in the consultee comments of 26<sup>th</sup> March 2014, about the development lacking in public open space provision, and that if the swales are steep sided they are unlikely to be used by the public. The report says: ***“The Landscape Strategy does not include the main areas of informal open space to the north of the proposed Oxon Link Road. Without this secured as part of the application, the development is considered to be lacking in natural greenspace.”*** Without a Section 106 agreement to secure creation of the open space north of the new road, the scheme does not comply with the Masterplan document.

With regard to the tree and hedge line, there is already a departure from the adopted Masterplan in that trees T22 – T26 are now identified for removal by the developers. The Council’s Tree Officer says: ***“in it’s current layout the proposed development has the potential to cause significant damage to a number of trees which in turn would precipitate their loss, including the loss of a veteran tree”***. One has to wonder if any trees or hedging on the site will be safe.

The RPS Bat Survey identifies at least moderate levels of common and soprano pipistrelle activity, and the SWRA feels that the removal of the trees and hedges and effect on the wildlife cannot be mitigated with a few Bat boxes.

The outline planning application (14/00246/OUT) is accompanied by 6 supporting technical studies and the EIA Screening Opinion from the LPA suggests that these will provide the necessary information on a range of issues of environmental importance. These would be assessed as part of the determination process of the planning application.



However there is a case law: *“Berkley v Secretary of State for the Environment (2000)”*, where the House of lords ruled that EIA could no longer be inferred. In short this means that planning authorities can no longer say that while they have not carried out an explicit EIA, their determination process amounts to an EIA by addressing key environmental impacts. The submission of a total of 7 standalone environmental reports strongly suggests a wide suite of environmental effects that require detailed examination. This points to the type of development that should require an EIA, since the reports are lengthy and presumably, therefore, deal with important issues that are required by the Council to be assessed prior to a decision being made on the proposals. Moreover, the LPA appear to justify a lack of significant environmental effect based on a reliance on the effect being dealt with as part of the application through a technical report. **This fails to deal with the key question in EIA Screening, which is to ask whether the combination of potential environmental effects would, collectively or in isolation, give rise, overall, to significant effects on the environment.**

The LPA also appears to be justifying a lack of ‘significant environmental effect’ based on a reliance on planning conditions or that the effect will be dealt with as part of the application through a report . The Gillespie case (**Gillespie v First Secretary of State [2003] EWCA Civ 400**) established that planning conditions can only be relied upon to reduce potential environmental impact when modest in scope or so plainly and easily achievable that it would be proper to hold that the project could not have significant effects on the environment. However if prospective remedial measures are not plainly established and not plainly uncontroversial, the case calls for an EIA. Again, a precautionary approach should be followed if in doubt.

- e) There are a number of complex ideas bound up in the assessment of the likely **impact of the development** and its consequent need for EIA. The sensitivity of ecological receptors to environmental impact may, for example, include both social and ecological impacts. Likewise there is an emerging trend to see the environmental carrying capacity of an area in terms of, not just of wildlife, but as a measure of for example **air pollution** and its impact on human health. This leads to the extremely important issue of a **Health Impact Assessment (HIA)** and indeed the NPPF is charged with contributing an important role in facilitating social interaction and creating healthy, inclusive communities. This has not been considered, and it is now

widely recognised that **many factors** can influence health and health inequalities, including housing, the environment, transport, education, and access and quality of services. This needs to be addressed.

- f) On the 1<sup>st</sup> October 2013, we contacted Shropshire Healthwatch and asked if they were aware of the potential increase in patients from the 750 new homes, and could they offer assurances that the health impact will be positive or neutral. The Chief Officer responded and said:” **We have not been made aware of the planned increase in patients; a Health Impact Assessment should have been undertaken during the planning process but we can find no evidence of this or, if it did take place, what the outcome of the assessment was.**” This concerns us greatly.
- g) In December 2013 we contacted the **West Midlands Ambulance Service** and asked if they had been consulted on the additional housing in Shrewsbury. In the reply from the General Manager for west Mercia dated 23rd December 2013, he said: “**I can confirm that to the best of my knowledge West Midland Ambulance Service has not been involved in the consultation process. With regards to the impact the population increase will have on our service delivery in Shropshire, it is already on record that an independent report clearly identified in 2009, that the Shropshire service was underfunded and unable to meet national targets. Demand continues to increase year on year and investment by the Clinical Commissioning Group has still not addressed the shortfall identified, so any further increase in demand can only have a detrimental effect on our service delivery to the public of Shropshire**”!
- h) There is no fixed way of making a decision to conduct an HIA, however, the screening tool should help to ask: are there significant impacts, **missed opportunities or scope for improvements** for all or some groups. The Scheme does not readily identify housing suitable for older or disabled people within the plan, and does not address the lifestyle of young people/children. Open space is limited, and what is available is adjacent to hazards such as open swales and the proposed Oxon Link Road which will inevitably become a trunk road as part of the NWRR. Without an HIA, determinants of health and well-being such as social and community influence, cannot, and will not be addressed.
- i) The **potential significant effects** of the development have not been given appropriate consideration. The **extent of the impact** is such that it will

cause traffic issues at the Dobbies Island on the A5 and the Meole Retail Park as this is the nearest out-of-town area for essential shopping. This area is already severely congested at weekends, and this is before the 900 dwellings are built on the South SUE. This does not feature in the traffic impact study. The Air Quality Assessment **assumes** that there will be an increase of 'daily two way traffic' south on the A5 from the Churncote Island of **1,697 light duty vehicles daily**. We suspect that this does not include the additional employment traffic, but confirms that there will be a significant uplift in traffic heading towards the Meole Village Retail Park Area. **What mitigation is proposed?**

- j) The Air Quality Assessment Report **distances the Oxon Link Road from the NWRR** and says that it should not be considered a substitute. This conveniently dismisses any need to consider the impact that the future delivery of the NWRR will have as an environmental impact. The NWRR remains a Shropshire Council aspiration, and the future traffic generation and associated pollution with that road should at least be considered at this time. A report to Shropshire Council Cabinet of 16<sup>th</sup> October 2013 had the following to say about this road:

**“For Shrewsbury West SUE an additional ‘driver’ is planned provision of a new ‘Oxon Link Road’ connecting Churncote Island on the A5 Bypass to the Holyhead Road, this BEING A LEG OF THE PROPOSED SHREWSBURY NORTH WEST RELIEF ROAD, which remains a long term aspiration of the Council”.**

The Highways Agency have recently submitted comments (See Planning Register 14/00246/OUT) about the Transport Assessment provided by RPS. That **report is critical** of the methodology used in many instances, and clearly states that in relation to the infrastructure, including the NWRR, that: **“The applicant’s consideration of mitigation will therefore need to be undertaken in that context”**. We agree with this approach, and feel that if the NWRR is a Council aspiration (and ultimately their decision on progressing it), then as major land owners of the scheme, they should factor this into the current proposed mitigation arrangements.

- k) The Traffic Data supplied in the Air Quality Assessment seem **overly simplified** and assume the same 'daily two way traffic flow' (1,926) to all the suburban roads and lanes surrounding the SWSUE site, and **assume** that the development will not create any additional Heavy Duty Vehicle (vehicles

greater than 3.5t gross weight including buses) movements than if the development did not take place. **Is this realistic?**

The Highways Agency say in their Technical Note (12/03/14) that, transfer trips have been **excluded**, the PFS trip rates are considered to be **too low**, the indicated hotel AM arrival trip rates are **lower than expected** and should be determined using a **different method**. The covering letter (dated 12<sup>th</sup> March 2014) from the HA says: **“There are a number of issues and matters outstanding which require further assessment work to clarify the impact on the Strategic Road Network (SRN)”**.

As a consequence, the HA have issued a TR110 form directing that the application **not be determined for a period of 3 months** from the date of the letter. The **Shrewsbury West Residents Association** support this position and respectively request the Secretary of State to go further and consider our submission for an **Article 14 direction** (attached to this request) to delay the grant of planning permission until at least the arrival of the Inspectors report on the **SAMDev Examination**, or request a Call-In of the application.

- l) No allowance has been made for **re-suspended road dust in the Fugitive PM10 Emissions**. As this area has a rural background, this can be significant. No mitigation has been proposed for particulate matter from brake dust and tyre wear either.
- m) The background NO2 diffusion tube results used **have not been formally validated**, yet they are used to indicate a predicted SWSUE NO2 levels of 14.4ug.m-3 which is far lower than the levels recorded at the diffusion tube at Mytton Oak Road (Up to 25ug.m-3) which is less than 1km away, and of similar character!
- n) The Dispersion Model for air pollutants uses meteorological data from the Shawbury observation station, and although the prevailing wind direction Rose is shown in the Appendix, no reference or comment is made about the effect of this on **pollutant dispersal**. The pollutant dispersal radius is shown as symmetrical from the site, when in fact it would be **asymmetrical** because of the prevailing wind to the South West.
- o) The overall significance of air quality is a **professional judgement**, and in this case it is judged as **‘negligible’** by the developer’s consultants. The mitigation proposed relates to best practice during construction which involves dust reduction measures, but nothing to mitigate the increase in

NO2 from the urbanisation of a greenfield area. Ultimately the report only provides predictions based on a methodology that is not substantiated by any comprehensive follow-up on a similar scheme, and no doubt, will not take place on this scheme after completion. Whilst we would not question the professionalism of the consultants, surely for a scheme of this magnitude, **an independent report would be more appropriate?**

- p) A **Great Crested Newt (GCN)** survey was commissioned by the developers in July 2010 after a change to the red-line boundary of the scheme. This survey was of 5 ponds outside the red-line boundary, but within 250m. Paragraph 4.2.4 of that report concluded: **“The absence of GCN within the ponds indicates the presence of GCN within the terrestrial environment is highly unlikely”**.

However in October 2010 a **GCN was spotted and photographed in a garden at Shepherd’s lane** near to the pools. The breeding sites or resting places are protected under Regulation 14 of the Conservation of Habitats & Species Regs 2010, and Sect 9 of the Wildlife and Countryside Act 1981. It is an offence for anyone intentionally to kill, injure or disturb a great crested newt, or to possess one (whether live or dead). It is also an **offence to damage, destroy or obstruct access to any place used by great crested newts for shelter**.

Shropshire Councils Planning Ecologist has put an informative on the application which says: ***“If a Great Crested Newt is discovered on the site at any time then all work must halt and a licensed ecologist should be contacted for advice.”*** Whilst we support such informatives, we are concerned as to how this will work in practice; it would be a brave employee/contractor who identifies the presence of GCNs to his employer!

- q) There has been much talk over the years about the lack of follow-up being conducted on completed projects. Without follow-up it is only ever the predicted effects on the environment and not the real effects that are considered.

The screening opinion from the LPA says: ***“An initial appraisal of the issues likely to be material to the determination of the application has not revealed any matters that are likely to have more than localised impacts”***. It is hardly comforting that the fate of the local environment, and health of local residents, rests upon an initial appraisal, done at a desk, by the LPA who have a vested interest in the scheme progressing, and any **consultation carried out on the screening option remains confidential!**

Ultimately any additional costs will affect the value of the Council owned land, and the acknowledged risk of the scheme to the Council (See Cabinet Report 16<sup>th</sup> Oct 2013). There is no separation here from landowner and LPA.

- r) There are local concerns about the geological formation of the area during the last ice age with much of the parish being deposits of glacial boulder clay, and thick layers of sand and gravel. Kettle holes were formed when the ground collapsed due to buried ice melting and forming numerous natural pools in the area. Their location provides a clue to where underground channels are located, and there are areas of soft mud and peat which have caused problems for developers in the past.

The pool that has developed at the end of Shepherd's Lane is a known site of an ancient pool as marked on an original map of the area of Bicton dated 1768. The pool has now reformed to its original size, and houses are planned to be built on that area.

SWRA believe that it is essential that a geological survey of the site is needed to properly assess the stability of the area, and the application amended as necessary to ensure that future housing is not compromised.

- s) Consideration should be given to **alternative sites**, and the LPA would argue that this scheme has gone through an intensive consultation and selection process and was found sound during the Core Strategy Examination. The **consultation was ineffective**, based on an Interim Statement of Community Involvement (ISCI), which itself only received **8 responses** to a consultation on its own effectiveness. **Local residents were not consulted** during the early phases of the Core Strategy when site selection options took place, and only became aware of the SWSUE when the Masterplan consultation took place in the summer of 2013. This subsequently led to a 1,000 signature petition being presented to Shropshire Full Council in September 2013, objecting to the **lack of consultation** and engagement with the community at a time **when their opinions can make a difference**.
- t) There was a **general bias** in favour of this site for a SUE because of its apparent ability to provide the Oxon Link Road, and on this basis, no other site was ever really a contender. In essence, the suitability of this site was based on the provision of a highly un-environmental piece of infrastructure (NWRR). Details of this process are contained in the attached Statement of Objection to planning Ref: 14/00246/OUT. We would contend that the

process used for selection of this SUE is of **national importance** because of the way that the LPA has been able to navigate their aspiration of a NWRR through the planning process, despite considerable local opposition. This **needs to be investigated** and measures put in place so that this cannot occur elsewhere. It must also be noted that conformity with a development plan does not rule out the need for an EIA.

Prior to the formation of the Shropshire Council Unitary Authority, the LPA for this area was Shrewsbury & Atcham Borough Council (SABC). In 2007, SABC commissioned 'White Consultants' to carry out a 'Landscape Sensitivity and Capacity Study':

([https://static.shropshire.gov.uk/publications/PlanningLDF/Shrops-EV29-shrewsbury-landscape-sensitivity-and-capacity-\(1\).pdf](https://static.shropshire.gov.uk/publications/PlanningLDF/Shrops-EV29-shrewsbury-landscape-sensitivity-and-capacity-(1).pdf) )

The site of the initial application (14/00246/OUT) for the SWSUE is identified in Figure 1 (Immediately after Page 22), is summarised on Page 11, with the following comments on Page 240:

**LANDSCAPE SENSITIVITY (high/medium)**

***JUSTIFICATION – The area consists of pasture enclosed by hedgerows with trees adjacent to a farmstead. It forms part of an attractive countryside approach to Shrewsbury. Development on the north side of the A458 to the east is intermittent with green spaces between patches of ribbon development. The area has PROWs running through it and is overlooked by adjacent semi-rural housing.***

**HOUSING CAPACITY (medium/low)**

***JUSTIFICATION – The area has very little capacity for housing development as it forms part of a wider countryside running to the north and beyond the bypass to the west. Development on the north side of the A458 to the east is intermittent and it is inappropriate to develop this area in the short/medium-term.***

**EMPLOYMENT CAPACITY (low)**

***JUSTIFICATION – The area has no capacity for employment as it is part of open countryside and is overlooked and lies adjacent to residential areas.***

This was buried in the evidence base (EV29) for the Core Strategy, and begs the question how this area can be considered a sensitive landscape area,

unsuitable for housing or employment in 2007, yet a few short years later is promoted as being suitable, available and viable in the Core Strategy?

u) Leading on from the above point is the major concern about the local parish council **not even being aware of the scheme** until after it was in the Core Strategy (See comments from Bicton Parish Council (BPC) on Planning Ref: 14/00246/OUT). This is explored in more detail in the Article 14 request. When informed by the LPA of the request for a screening opinion (Ref:13/00265/SCR), BPC were told that it was a necessary technical part of the process, and understood this to be a kind of 'outline' permission. They were also told that there was **no mechanism**, or necessity for BPC to respond to this part of the process, therefore BPC could make no response.

v) LPA's should bear in mind that what is in question at the screening opinion stage is the **broad significance** of the likely environmental effects of the proposal, and that exceptionally they may wish to consult with other bodies.

There are 2 local Parish Councils, BPC as already mentioned who were not permitted to comment, and Shrewsbury Town Council (STC) who say they were not even aware of the request for a screening opinion. The Shropshire Council planning register (Ref:13/00265/SCR) shows that there were 19 bodies listed for consultation, and only 2 responded, SC Archaeology, and SC Trees. The Environment Agency is referred to in the screening opinion from SC, but there is **no official comment on the register**.

w) Paragraph 58 of Circular 02/99 states that **"If a planning application is subsequently made for the development, the opinion and related documents should be transferred to Part 1 of the register with the application (regulation 20)". This has not been done**, and the only way the public have been made aware that there was a screening opinion request is by stumbling across it in the Planning Statement submitted by the scheme's agent. Inspection of the SC planning register shows that **neither the screening application (13/00265/SCR) or outline application (14/00246/OUT) are linked to each other!**

x) **Article 6 of the Human Rights Act 1998** has some significance here as it enables a complainant, whether developer or objector, to argue that they have not had a fair hearing. The lack of effective engagement in the early stages of the Core Strategy denied those directly affected by this scheme to voice their opinions about its selection, and the request for a screening



opinion was not publicised and its existence has only recently become known when it was found within the developer's Planning Statement.

- y) On 24<sup>th</sup> February 2005, the UK ratified the **Aarhus Convention** which is an important measure to ensure 'environmental democracy'. **Article 6(b)** specifically states that the public shall be informed of the following matters: **"the fact that the project is subject to an environmental impact assessment procedure."** A screening opinion is part of the EIA procedure, and as such, the public should have been notified. The information was not transferred to Part 1 of the planning register when the outline planning application was submitted, and it was not linked either.
- z) The Interim Statement of Community Involvement, and the **Statement of Community Involvement** both create a **legitimate expectation** that those affected by a development will be consulted. There is clear evidence that this is not the case, and a **petition of over 1,000 signatures** was presented to Shropshire Council in September 2013 as a result of the **ineffective community engagement** around the selection of the SWSUE.

## CONCLUSION

11. For Schedule 2 projects an EIA must be carried out if the development is likely to have a **significant impact on the environment** by virtue of its nature, size or location. The definitions, within the selection criteria, allow for **considerable uncertainty** about the need for EIA in specific circumstances.

12. In the past, the UK Government has been accused of having an **ideological opposition to EIA** as they were trying to reduce the role of the state in economic development and actively **seeking to speed up decision making in planning**. The regulations have been criticised for lacking depth and commitment and allowing a **minimalist culture** to develop in the conduct of EIA. It is no secret that the government places much importance on the housing sector to 'kick-start' the economy, but this should be **no reason to fast-track environmental issues**. The effects of likely environmental impacts will be **frequent and often irreversible**, and therefore it is most important that they are given the appropriate consideration at the right stage.

13. The agent's for the scheme say in their request for a screening opinion that **"The extent of any impact is likely to be limited to the immediate area surrounding the application. The probability of any impact occurring is extremely subjective and would primarily relate only to visual impact which is not considered to be significant material consideration."**

14. In our view, this is an **overly simplistic analysis**, and demonstrates a lack of understanding, awareness, and empathy for the natural environment and local area. Developers construct companies to minimise financial exposure to schemes, and once completed the business will have a notional value that limits any claim against the parent company. Whilst there may be building warranties in place to give some protection to occupiers of the dwellings, **what recourse** will there be for any environmental impact that emerges post construction? Whilst the site of the proposed development is not a sensitive location as defined in the 2011 Regulations, the receiving environment is of value and there are sensitive surrounding receptors. In addition, proposed development has the potential to give rise to a range of environmental effects, jointly and severally, of a level of magnitude, complexity or significance to require statutory EIA. On this basis, we ask that you direct that the proposed development is EIA Development for the purposes of the 2011 Regulations.

15. Shropshire Council set out their position in a report to Cabinet on 16<sup>th</sup> October 2013 as follows: **"The lead scheme promoters for Shrewsbury West (SUE) have been Mosaic Estates, BUT the Council has major land interests and a key role as Highways Authority in the provision of the Oxon Link Road, and so is a party to the preparation of the masterplan and its related costs, sharing the associated risks should the development not proceed. It is important that a clear separation is maintained between the Council's interests as a landowner and its role and objectives as the Local Planning and Highways Authority"**.

Unfortunately, in the Council's eyes, this scheme is too big to fail, and crucial decisions have been made by Council Officers (not Mosaic Estates) that have been heavily biased towards promoting land in the Council's ownership. We understand (see comments from Bicton Parish Council, planning reference 14/00246/OUT) that agreements and promises have been made to the developers, and if these are not met there will be financial penalties for Shropshire Council. If this is so, we believe **this would put Shropshire Council in an untenable position.**

16. We strongly believe that this scheme has potential to cause **significant lasting effects on the environment**, and it is crucial that an EIA is carried out so that these effects can be mitigated if the scheme is granted planning permission. There are many references to the **NPPF** that we could have used, but the most appropriate is **Paragraph 118**:

**“When determining planning applications, local authorities should aim to conserve and enhance biodiversity by applying the following principles:**

***“If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”***

DEFRA have recently consulted on ‘**Biodiversity Offsetting in England**’ (Sep 2013) and the Green Paper is proposing a ‘Mitigation Hierarchy’ which is already embedded in the NPPF as shown above. The lack of effective consultation, and prerequisite of a ‘Link Road’ to the NWRR, **denied local people the opportunity** to identify an alternative site with less harmful impacts.

17. The proposed development exceeds the relevant applicable thresholds and criteria in the 2011 Regulations to be classed as ‘Schedule 2 Development’. Moreover, it exceeds the indicative thresholds and criteria in Circular 02/99 for it to be classed as ‘EIA Development’ requiring a statutory EIA. It would be a large urban extension and a “major development of more than local importance”. The scale of the development would have a significant urbanising effect in a previously non-urbanised area and is sufficient for it to have “wide-ranging environmental effects” that would justify EIA.

Whilst the site of the proposed development is not a sensitive location as defined in the 2011 Regulations, the receiving environment is of value and there are sensitive surrounding receptors. In addition, the proposed development has the potential to give rise to a range of environmental effects, jointly and severally, of a level of magnitude, complexity or significance to require statutory EIA.

18. On this basis, we ask that you direct that the proposed development is EIA Development for the purposes of the 2011 Regulations, and also considers either calling this application in, or in accordance with the **Town and Country Planning (General Development Procedure) Order 1995, Article 14(1)** to issue a direction to the local planning authority restricting the grant of planning permission in relation to **Shropshire Council Planning Ref: 14/00246/OUT** until such times as the **SAMDev Public Examination** has taken place so that there can be total transparency of the agreements and arrangements that have taken place to promote this particular area of land for the SWSUE.

**B. REQUEST FOR AN ARTICLE 14 DIRECTION UNDER THE TOWN & COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995, WITH REGARD TO SHROPSHIRE COUNCIL PLANNING REF: 14/00246/OUT.**

1. The above application was submitted to Shropshire Council (LPA) and validated on 21<sup>st</sup> January 2014. The determination deadline is 22<sup>nd</sup> April 2014, but the Highways Agency (HA) issued a TR110 on the 12<sup>th</sup> March 2014 directing that the application not be determined for a period of 3 months due to a number of issues and matters outstanding.
2. Under Article 14, the Secretary of State may: ***“give directions restricting the grant of permission by a local planning authority, either indefinitely or during such period as may be specified in the direction, in respect of any development or in respect of development of any class so specified.”***
3. The purpose of this statement is to lay out reasons that we, the Shrewsbury West Residents Association (SWRA), feel that the granting of planning ***permission should be delayed until the Secretary of State has decided on*** whether or not to call-in the application, or at least until all the concerns raised by SWRA, and others, can be considered by the Planning Inspectorate during the examination of the Shropshire SAMDev which is estimated to take place in the Autumn of 2014, with a decision in the Spring of 2015.
4. The regulations require that applicants give clear reasons why they think that the application should be called-in, and generally the reasons should

be of more than local importance. Examples of reasons for why the secretary of state might decide to use call-in powers are best described in the 'Caborn Principles' which were amended in the Written Ministerial Statement of 26<sup>th</sup> October 2012.

5. There are 6 principles listed, but it is clearly stated that ***“each case will continue to be considered on its individual merits.”*** Whilst it is understood that the policy is to be very selective about calling in applications, we strongly believe that the circumstances of this application are such, that in all fairness, **the decision cannot be made locally.**

## 6. **GROUND FOR ARTICLE 14 DIRECTION OR CALL-IN BY THE SEC OF STATE**

In this statement we present 4 significant grounds, each of which we believe are significant to warrant a call-in by the Secretary of State, but cumulatively leave little doubt. These grounds are:

- . **Breach of Legitimate Expectation**
- . **Misleading the Planning Inspectorate**
- . **Manipulation of Developer Contributions**
- . **Failure to Disclose a Pecuniary Interest**

- a) **Breach of Legitimate Expectation** – The Core Strategy was submitted for examination on 30<sup>th</sup> July 2010 and this identified the SWSUE as an edge-of-town-centre development. An Interim Statement of Community Involvement (ISCI) was adopted in July 2008, and the current Statement of Community Involvement (SCI) was adopted in February 2011.

i) The ISCI was put out for selective consultation prior to adoption and **only 8 responses** were received, none of which were from the public, and the SCI only received 29 responses in total (only 14 of 150+ local councils responded) and the strong message that came through, from those that did respond, was that **electronic communications are disenfranchising.**

ii) Paragraph 6.5, bullet point 4, of the SCI says that ***“revision to the SCI is anticipated if consultation responses are low”***, yet despite only having 29 responses, from around 300,000 residents of Shropshire, the SCI was adopted. This SCI was used to formulate a strategy for public consultation

as the Local Development Framework(LDF) progressed, but the emphasis was on electronic communications which requires the public to be proactive in finding information for themselves.

iii) The statement of consultation submitted at each stage by Shropshire Council looks impressive and cumulatively add up to some 4,000 responses, however, most comments come from those on the LDF database, inclusion on which is **self-selective**. To be included on this database, you need to know of its existence, and of the SCI. Not many members of the public do!

iv) A petition was presented to Shropshire Council in September 2013, signed by **over 1,000 local residents**, it registered the dissatisfaction of those people living near to the SWSUE area, and the disappointment that they were not aware of the scheme until July 2013 when it made the front page of the local newspaper.

v) The consultation process is examined in more detail in the attached '**Statement of Objection to Planning Application 14/00246/OUT by Mr Stephen Mulloy**' and in the attached '**Statement on the Ineffectiveness of the Shropshire Council SCI**'.

vi) The selection of an urban extension site is not a voting process, but **if better consultation had taken place**, then officers would have had to reflect on the views of those 1,000+ local residents that signed a petition in September 2013. If they had been engaged during the Issues and Options stage in 2009, then matters may have been raised that would have prevented the current SWSUE being progressed, and **alternative proposals could have been suggested**. Alternatively, there may have been support for the scheme if the community had been engaged and consulted effectively at an early stage and worked collaboratively with the developers, landowners, and the Councils to bring forward a SUE that meets the aspirations of the local community as well as Shropshire Council.

Instead local people, through the SWRA, are having to familiarise themselves with a development plan process that has been over 5 years in the making, and **forensically examine** the information and reports **retrospectively**, as well as keeping abreast of the latest developments in the scheme. This is not good enough, and is poor practice to not consult effectively and present a fait accompli.

vii) The 'Shrewsbury's Direction of Growth Options Assessment Technical Background Paper Version 2 – July 2010 (EV24):

[https://static.shropshire.gov.uk/publications/PlanningLDF/Shrops-EV24-Options-Assessment-Cover-Report-V2\\_Shrewsbury.pdf](https://static.shropshire.gov.uk/publications/PlanningLDF/Shrops-EV24-Options-Assessment-Cover-Report-V2_Shrewsbury.pdf) Page 8 of this document summarises the options for growth, the SWSUE site is Option B, and the consultation response summary for Option 'B' says: ***"Issues and Options stage consultation response: 30% 1<sup>st</sup> preference, 11% 2<sup>nd</sup> preference – highest scoring option in consultation response (BUT SKEWED BY MULTIPLE IDENTICAL RESPONSES BY A SINGLE AGENT)."***

viii) Within a month (13 August 2009) the above 'skewed response' was presented as a **statistical fact** in the 'Analysis of Issues and Options Consultation Responses Report':

([http://www.shropshire.gov.uk/committee.nsf/0/4FB81FEC7C188674802575ED0050601B/\\$file/App%20D%20-%20Options%20Analysis.pdf](http://www.shropshire.gov.uk/committee.nsf/0/4FB81FEC7C188674802575ED0050601B/$file/App%20D%20-%20Options%20Analysis.pdf)) and Option 'B' promoted as the first choice of respondents in the 'Shrewsbury's Direction of Growth' table on Page 12/13 with, 1<sup>st</sup> preference 30%, and 2<sup>nd</sup> preference 11%. **There is no mention of the 'skewed response'.**

ix) Agents for the scheme, RPS, oversaw the Masterplan consultation during the summer of 2013, and several members of our association wrote to them with concerns. **None received acknowledgement or a reply.**

b) **Misleading the Planning Inspector at the Core Strategy**

**Examination** – The Core Strategy was submitted for examination on 30<sup>th</sup> July 2010, and Examination hearings were held 16 – 26<sup>th</sup> November 2010.

i) The Planning Inspector produced his report on 7<sup>th</sup> February 2011, and Paragraph 27 dealt with the SWSUE and said: ***"The main concern relates to the provision of the Oxon Link Road (as part of the SNWRR) and the need for improvements at Churncote roundabout on the A5. However, the main developer sees these infrastructure works as integral to the project, and in response to concerns about viability, is confident that these costs have been taken into account."***

ii) On the 16<sup>th</sup> March 2011, a 'Statement of Consultation on the Shropshire CIL Preliminary Charging Schedule' was reported to Cabinet: ([http://www.shropshire.gov.uk/committee.nsf/0/E0C464F6C9B0A5B680257848005AB9DB/\\$file/12%20Appendix%201%20CIL%20Consultation%20Statement%20final.pdf](http://www.shropshire.gov.uk/committee.nsf/0/E0C464F6C9B0A5B680257848005AB9DB/$file/12%20Appendix%201%20CIL%20Consultation%20Statement%20final.pdf)) At paragraph 3.28 it says:

***“The developers for the Shrewsbury West SUE argued there was a compelling case for a lower CIL rate of £15/m<sup>2</sup> as the cost of the Churncote Island improvement works alone are likely to be about £2.5 million, before any consideration is given to construction of the Oxon Link Road (estimated at some £6.5m) and laying out of the relocated park & ride facility. At a rate of £40/m<sup>2</sup>, the CIL contribution would be in the region of a further £2.9m. The developers argued that a reduction of the Levy was a more transparent approach than the alternative of the developers having to seek discretionary relief.”***

iii) If we consider for one moment that these **two contradictory statements** had been presented to the alternate Planning Inspector, then the Inspector at the Core Strategy would have been aware of viability concerns of the SWSUE, and conversely, the Inspector at the CIL Charging examination would have been assured that there were no concerns over viability. Whilst the CIL charging was not affected (although Shropshire Council have provided discretionary relief) it is **highly likely that the Inspector at the Core Strategy Examination may have come to a different conclusion** on the suitability of Bicton Heath (Option B) as a SUE.

iv) What must be remembered, is that **Shropshire Council are major landowners in this scheme and ultimately share the risk and costs if this scheme were not to proceed**. See officers report to Cabinet (16<sup>th</sup> Oct 2013, Paragraph 2):

[http://www.shropshire.gov.uk/committee.nsf/0/96DF1675051D436180257BF700317BE8/\\$file/9%20Shrewsbury%20West%20SUE%20Masterplan.pdf](http://www.shropshire.gov.uk/committee.nsf/0/96DF1675051D436180257BF700317BE8/$file/9%20Shrewsbury%20West%20SUE%20Masterplan.pdf)

Therefore when these submissions were made to the Planning Inspectors, the LPA would have been fully aware of how misleading the statements were, and would have supported this approach because of their interest as landowners, and their own **exposure to risk**.

v) In paragraph (ii) above, the developers presented likely costs of the infrastructure which included £2.5m for improvement works to the Churncote Island, and an unspecified amount for the laying out of the relocated Park & Ride facility.



However in an email (2<sup>nd</sup> Sep 2013) a Shropshire Council Senior Specialist Planning Policy Officer wrote:

***“... there are a couple of elements to the works needed to the roundabout – firstly the improvements needed as part of improving the capacity of the trunk road (the responsibility of the Highways Agency) and secondly connecting the Oxon Link Road (which will not be a trunk road and so is the responsibility of the Council as local highways authority). Therefore the Council intend that CIL proceeds will be used to help fund both of these, whereas the Oxon Link Road is planned to be funded primarily through the sale/development of the land forming the SWSUE.”***

vi) It is clear that CIL proceeds will be paying for the enhancements and connection at the Churncote Island (alongside the HA), and the Park & Ride is no longer to be relocated, which in itself **saves around £3m**, and creates further opportunity for the developers in profiting from the Hotel and Offices to be built on the land. The only main infrastructure work remaining is the construction of the Oxon Link Road, which has always been a requirement of any scheme coming forward as a SUE on the west side of Shrewsbury, and therefore should have been allowed for in the price paid for the land.

vii) On the 2<sup>nd</sup> April 2014 there was a report in the Shropshire Star (<http://www.shropshirestar.com/shropshire-business/2014/04/02/150-million-shropshire-masterplan-to-create-40000-jobs/>) about a bid, lodged by the Marches Local Enterprises Partnership (LEP), for £102 million of funding from the government. The LEP has outlined a number of ‘shovel-ready’ projects which it would fund with the cash. **Included in this list is £12 million for Shrewsbury’s Oxon Link Road** linking the A5 to the B4380 Holyhead Road. This is double the estimate put forward by the developers at the CIL charging schedule consultation (See Para (b)(ii) above), and as the Council’s Senior Specialist Planning Policy Officer has said ***“The Oxon Link Road is to be funded primarily through the sale/development of the land forming the SWSUE”***.

**So what infrastructure will the developers of the SWSUE actually be paying for?**

- c) **Manipulation of Developer Contributions** - During the consultation into the developer contributions (which for the purpose of this submission we include: Community Infrastructure Levy (CIL), and Affordable Housing Contribution (AHC)) it was made very clear, and indeed identified as critical, that the value of the Levy (AHC & CIL) must come off the land value. In simple terms the value of the land is:

***Total Sales Value – Total Development Cost (Including Developer Contributions) – Developer Profit (Say 20%) = Land Value.***

i) As the LPA are major landowners in the scheme there can have been no doubt that parties would have been aware of the infrastructure required and the burden of the Levies at a very early stage. So why didn't negotiations take place that ensured the cost of the Levies came off the land value? Are the **landowners being paid too much for the land**, and are the landowners or the developers benefitting from the Park & Ride no longer being relocated?

ii) On the 29<sup>th</sup> August 2013, a letter was sent to the agent's (RPS) confirming that there would be a **preferential rate of AHC** for the SWSUE, and this is at Appendix 3 of the Planning Statement - Application Ref:14/00246/OUT. For ease, we reproduce the main text of that letter here:

***"I refer to recent discussions concerning the above and in particular the attempts to agree a level of affordable housing contribution arising from the proposed development.***

***The current affordable housing requirement is 13% for housing development that is subject to an application prior to 1<sup>st</sup> September 2013. After this date the prevailing target rate is rising to 20% for this area. It is however agreed that, having regard to the strategic importance of the development, the overall infrastructure contributions including particularly the provision of land and funding for the construction of the proposed Oxon Link Road, and the cross-subsidy to delivering the employment elements of the Shrewsbury West SUE, 15% would be an appropriate affordable housing requirement for any applications validated between 1<sup>st</sup> September 2013 and 31<sup>st</sup> August 2018. This would be subject to overage arrangements to reflect possible uplift in land/house values for that period, but which would also take into account any previously unidentified or underestimated development costs subject to an 'open book' approach. Such an overage clause would have effect***

***notwithstanding any arrangement between the developers and the landowners to reflect an uplift over a period of time in the land price.”***

iii) The SWSUE is expected to produce 750 dwellings, and if the AHC was at the prevailing rate of **20%**, then this **would require 150 affordable homes** to be provided. **At 15%, this reduces to 112**, so there will be an ‘**under-supply**’ of **38 affordable homes** on the scheme. And whilst there is an overage arrangement in place, with such a complex scheme, involving landowners and several developers, it is very difficult to believe that there will ever be a true account of the profitability of this scheme.

During the consultation of the developer contributions, concern was raised (CIL Statement of Consultation Para 3.61) about the “**dubious transparency of ‘open book accounting’ where the outcomes for the public are reliant on the negotiating skills, acumen and the unshakeable integrity of the officers undertaking the negotiation**”. It was felt that there was a need to be very specific about what democratic checks and balances are to be built into the system of negotiation and agreement to protect individual officers from undue pressure and to protect the public interest. **Has there been undue pressure, or are the Council finding it difficult to separate the conflict between being a landowner and LPA?** CIL Regulation 57 requires an assessment by an independent person of the cost of complying with a planning obligation; this should also apply, in this instance, with the AHC for the SWSUE!

iv) Not enough affordable homes are being built in Shropshire, and this was emphasised in a recent presentation by Shropshire Council’s Affordable Housing Officer to the Shrewsbury Town Council Planning Committee (28<sup>th</sup> January 2014). The minutes of that meeting, which can be viewed here: (<http://www.shrewsburytowncouncil.gov.uk/2shropnet/AToZOofMini-sites/S/ShrewsburyTownCouncil/MeetingsSchedule> ) express the dire situation of affordable housing supply in Shropshire:

***“109/13 AFFORDABLE HOUSING CONTRIBUTIONS WITHIN THE TOWN COUNCIL AREA***

***Members received a presentation from Mr Nick Wood, Affordable Housing Officer, about the provision of affordable homes in Shrewsbury and an overview of the targets for Shropshire.***

***The Core Strategy 2006 – 2026 states 27,500 new homes must be provided of which 33% must be affordable. However, with an annual shortfall of 1550 affordable homes in Shropshire, this demand can never be met.***

*The statistics were worrying with over 6000 people on the waiting list for affordable homes, nearly 80% of earning households do not earn enough to purchase an entry level house of £133,000 and over 80% of homeowners could not afford the home they live in."*

v) Shropshire Council produced an 'Issues & Options' consultation document in January 2009, and on page 62 it asked: **"What are Shrewsbury's strategic directions for large-scale greenfield development, in addition to continuing regeneration of brownfield sites?"**.

At paragraph 6.80 (Page 63) it summarised the benefit of the urban extension option by saying this **"offered significant potential to develop higher levels of affordable housing."**

vi) This potential has been completely compromised by Shropshire Council's manipulation of the developer contributions, and given the current under-supply expressed by the Affordable Housing Officer at the STC planning meeting, it is unacceptable. **The delivery of affordable housing has been compromised by Shropshire Council's desire to build the NWRR.** A road to nowhere is deemed more important than affordable housing!

- d) **Failure to Disclose a Pecuniary Interest** – During the public consultation period for the application (14/00246/OUT) the following comments were submitted by Bicton Parish Council (BPC) on the 17<sup>th</sup> February 2014 as part of the site is within their parish:

*"Bicton Parish Council (BPC) was not made aware of the SWSUE development until it was already in the Core Strategy. When BPC then objected to the whole idea of a SWSUE it was told that it is in the Core Strategy and therefore it is too late to object. BPC was further told that it would be consulted as to the details of the development; which it has been to the extent of being involved in the decisions about Calcott Lane and Shepherd's Lane and whether they should be connected to the Oxon Link Road or made in to cul-de-sacs.*

*It has been made plain to BPC that this development WILL go ahead because of (1) the Core Strategy, (2) NPPF, (3) the desire of the landowners to sell, (4) Shropshire Council has made promises to the developer and if these are not met there will be penalties, (5) the Oxon relief road will eventually facilitate the building of the North West Relief Road.*

*Given the above BPC feels bullied in to not objecting to this application."*

i) Inspection of the planning application, at Sect 25 Certificate B, shows that one of the landowners for the development scheme is Mr Elliot Blackmore, of Elmar, Welshpool Road, Shrewsbury, SY3 8HA.

ii) The BPC website has a 'Disclosure of Pecuniary Interest' from Cllr Elliot Blackmore, of Elmar, Welshpool Road, Shrewsbury, SY3 8HA. This declares a beneficial interest in land at Calcott Lane, Bicton Heath, Shrewsbury, SY3 8EZ. Significantly, it does not declare that this land is part of the proposed SWSUE and he has a pecuniary interest in that scheme.

iii) As BPC say they were not aware of the SWSUE until it was in the Core Strategy (Adopted March 2011), it does beg the question **"Why were they not aware of the SWSUE if one of their councillors is a part landowner of the scheme?"**

Preliminary inspection of the BPC minutes show that Cllr Blackmore did not declare an interest at any of the BPC meetings until 12<sup>th</sup> February 2013 when BPC considered the planning application **13/00265/SCR** which was the first technical application stage of the SWSUE.

iv) Prior to Cllr Blackmore declaring his interest on the 12<sup>th</sup> February 2013, the BPC minutes show that the SWSUE and future development plans for the parish were discussed at several meetings, and Cllr Blackmore **did not declare an interest**. It is not for this submission to forensically examine those minutes, but they do show that at the BPC meeting of 11<sup>th</sup> January 2011, Kathy Else of RPS Planning and Development Ltd (RPS) gave a summary of what 'hubs and clusters' will, in her opinion, mean to Bicton Parish. RPS is the agent/promoter of the SWSUE and Kathy Else is the lead on that scheme.

On the 23<sup>rd</sup> November 2010, Mosaic Estates in conjunction with RPS, submitted a letter to the Inspector at the Core Strategy Examination confirming a 'land control agreement', and this says at the 4<sup>th</sup> paragraph:

***"The land east of Calcott Lane is owned by Elliot Blackmore. Terms have been agreed between Mosaic Estates and Elliot Blackmore including equalisation principles for inclusion of that land within the proposed development."***

There can be no doubt that Cllr Blackmore was aware that he had a pecuniary interest at that meeting on the 11<sup>th</sup> January 2011, and **failed to declare such**.

v) In addition to this, Cllr Blackmore was appointed as a representative of BPC to an **'informal liaison group'** of Shropshire/Town councillors and Officers to discuss the SWSUE. Meetings of this group took place on, **20th February 2013, 20<sup>th</sup> June 2013, 22<sup>nd</sup> August 2013, and 2<sup>nd</sup> October 2013**. Although these meetings were informal, it is the opinion of the Shrewsbury West Residents Association (SWRA) that, because of Cllr Blackmore's pecuniary interest, he should not have been appointed to this group. We also understand that Cllr Blackmore is also a member of the **BPC Planning Advisory Group**, but we do not have further details on his involvement with that group, but understand that its purpose is to consider and advise BPC on planning applications within the Parish.

vi) At the Shropshire Full Council meeting of 27<sup>th</sup> February 2014, a member of the public raised this issue as a supplementary public question, and subsequent emails with the Council's Monitoring Officer **directed a complaint to the police** if it is a pecuniary interest matter. This was done, and the complainant interviewed by Shrewsbury Police on the 4<sup>th</sup> April 2014. The complainant was advised by the police that, in their opinion, it was not a pecuniary interest matter, and although it appeared to be an **offence under Sect 31(4), 34(a) and 34(c) of the Localism Act 2011**, these are only a guide. The police contacted Shropshire Council's solicitor (Mr Graham White), and the complainant was informed that Mr White would be 'advising' Cllr Blackmore about his conduct at meetings!

vii) Because of Shropshire Council's own interest in the SWSUE, and the reluctance of the police to get involved in a Local Authority complaint, the SWRA are concerned that there is not, or will not be, an objective assessment of Cllr Blackmore's failure to declare a pecuniary interest at multiple meetings of BPC, the BPC Planning Advisory Group, and the Informal SWSUE Liaison Group. We therefore feel that this provides significant further grounds for this application (14/00246/OUT) to be called-in, or at least subject to an Article 14 Direction to delay the grant of planning permission.

## **CONCLUSION**

With the introduction of the Localism Act in November 2011 came the expectancy, as outlined in the foreword by the Rt Hon Greg Clark MP, Minister of State for Decentralisation, that measures in the Act, when taken together, meant reform to make the planning system clearer, more democratic and more effective. The Act is supposed to place significantly more influence in the hands of local people over issues that make a big difference to their lives. As a community we have been denied the opportunity to respond to the selection of the SWSUE, due to ineffective public engagement practices by the LPA. These existed before the Act was introduced (the current Shropshire Council SCI was adopted February 2011), and despite promises made last year that the SCI would be refreshed, this has not happened.

The SWRA feel that there is, at the very least, compelling evidence within this statement for an EIA direction from the Secretary of State, and although, in practice, very few applications are called-in each year, we also respectfully request that this request is given serious consideration, or at the very least an Article 14 direction is issued, delaying the grant of planning permission until after the examination of the Shropshire SAMDev.

Yours faithfully

Mr Stephen Mulloy

For, and on behalf of the Shrewsbury West Residents Association (SWRA).

