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TOWN & COUNTRY PLANNING ACT 1990

APPEAL BY TESNI PROPERTIES LIMITED

AGAINST THE REFUSAL OF OUTLINE PERMISSION FOR: Residential Development (up to 215 dwellings); Public Open Space; Highway Works, including the Construction of New Junctions, Access Roads and Pedestrian Footbridges; a Neighbourhood Store (Class A1 - Retail); and Associated Engineering and Accommodation Works.

AT LAND OFF A49 AND BROMFIELD ROAD, LUDLOW SHROPSHIRE

STATEMENT OF CASE

DECEMBER 2014

APPELLANT REFERENCE: APP/ADV/TESNI/LUD

LPA REFERENCE: 13/03862/OUT

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- 1. Site Location Plan**
- 2 List of Supporting Information (original and revised) submitted to the LPA**
- 3 The LPA's EIA Screening Opinion**
- 4 Additional Information supplied to the LPA in connection with the resubmission application and potentially of relevance to this appeal application.**

1.0 Introduction & Background

1.1 This Statement of Case ('Statement') has been prepared by ADVANCE Land & Planning Limited (ADVANCE) on behalf of Tesni Properties Limited. It is submitted in respect of an appeal against the decision of Shropshire Council ('the LPA') dated 30 July 2014, to refuse outline planning permission for residential development on land off the A49 and Bromfield Road, Ludlow, Shropshire, against the Officer advice. The application reference 13/03862/OUT was registered on 27 September 2013. **Appendix 1** shows the site location.

The description on the original application form was subsequently amended at the suggestion of the LPA to read: '*Outline planning application for residential development (up to 215 dwellings) public open space; highways works; access roads and pedestrian footbridges; and a Neighbourhood Store (Class A1 Retail) not exceeding 300 sq.m. internal floorspace; associated engineering and accommodation works*'.

1.2 A list of the original information submitted in support the application, together with additional/amended information submitted in support of the revised proposals is included in **Appendix 2**.

1.3 It will be noted that prior to the submission of the appeal application, Tesni Properties Limited (formerly WCE Properties Ltd) and its consultancy team engaged with the local community in the manner explained in the Planning Statement that accompanied the application.

- 1.4 As a result of consultee responses, most notably from the Highways Agency, the original application submission was revised by emails to the LPA dated 19 March 2014 and 4 April 2014, to show a single roundabout junction off the A49. Minor changes were also made to the access arrangements off Bromfield Road and the various supporting reports and drawing were also revised accordingly.
- 1.5 In accordance with the EIA Regulation 2011, a formal request for a Screening Opinion was submitted by ADVANCE as part of its Planning Statement (paragraphs 1.14 and 1.15) and on 23 June 2014, the LPA confirmed that the planning application did not constitute EIA development and as such a formal Environmental Statement was not required. A copy of the LPA's reply is attached as **Appendix 3**.
- 1.6 The planning application was the subject of various ongoing discussions with Officers, culminating in a report to Committee on 24 June 2014 with a recommendation that permission should be granted. A copy of the officers' report; a subsequent Committee update and the approved Minutes of the meeting will be supplied by the Council.
- 1.7 Members visited the site on the morning of the meeting, but following a short debate at Committee, the application was deferred for a second site visit and for further clarification of the flood risk and drainage strategy, which was raised by the Ward Member.
- 1.8 The applicant submitted further information to outline and explain the drainage strategy and the application was subsequently reconsidered by Committee at its next meeting on 22 July 2014. Again the Officer report recommended that the application should be approved subject to conditions and the completion of a Section 106 Agreement to secure the provision of affordable housing. A copy of the report to

Committee; a subsequent update and the approved Minutes of the meeting will be supplied by the Council.

1.9 The Ward Member this time expressed no objection to the application. Nevertheless, the Committee resolved by a majority to refuse the application. The reasons for refusal at the Committee were not clear, but they have since been expressed by officers in the Minutes.

1.10 The decision notice contains a single reason for refusal as follows:

“The proposed development, through the close proximity and the associated dangers of the A49, River Corve and the railway, noise from road traffic and train movements, and the potential for an increased number of train journeys in the future would detract from the living conditions and be detrimental to the amenities and safety of residents. The site has poor accessibility and is considered to be an unsuitable location for residential development contrary to Policy CS6 Sustainable Design and Development Principles of the Council’s adopted Core Strategy and Paragraph 17 (point 4) of the NPPF. These adverse impacts would significantly and demonstrably outweigh the benefits in terms of the site contributing to the supply of housing land in Shropshire.”

1.11 Following the refusal, a second application has been submitted to the LPA for the same description of development, albeit supported by some additional/revised information in relation to noise impact, flood risk, vehicular and pedestrian access and with a modified indicative layout.

1.12 The majority of the various reports were also updated to reflect the revisions that had been undertaken over time and also what had been agreed with the various statutory and internal LPA consultees. A list of the additional/revised information submitted in support of the second application and which may be regarded as pertinent to this appeal, including the updated Planning Statement, is provided in **Appendix 4**.

2.0 Key Issues

2.1 The appellant considers that the key issues specifically raised by the decision notice are in relation to:

- The suitability of the site location to accommodate residential development and accessibility of the proposals to local services and facilities. Would the development be sustainable?
- The safety of future occupants having regard to the proximity and relationship of the proposed development to the A49; the railway line; and the River Corve.
- The noise climate (road and railway) and its potential impact upon the residential amenity of future occupants of the development

2.2 It should be noted that the site is not in a Conservation Area, nor does it adjoin any Listed Buildings. A Tree Preservation Order confirmed on 17 November 2014 covers four individual trees on the site.

2.3 The appellant contends that the decision does not raise concerns about:

- The proposed vehicular access arrangements in terms of highway safety or the free flow of traffic, or the specification of the pedestrian links.

- The findings of the Flood Risk Assessment and the associated Outline Drainage Strategy.
- The potential impact of the development on the wider landscape
- The potential impact of the development on protected species or other significant ecological interests.
- The potential impact upon protected trees and other important vegetation.
- The potential impact of the development upon heritage assets including archaeological interests and also historic setting of the Town.

3.0 The Appellants Evidence

3.1 The Appellant will therefore present evidence at the Inquiry in relation to Planning (including: general sustainability, housing requirements and supply), Transportation (accessibility/sustainability and safety); and Noise (potential impact from road traffic (A49) and railway). The Appellant also reserves the right to respond to any other matters which may subsequently be raised by the LPA.

3.2 In presenting its case, the Appellant will:

- Describe the site in terms of its size, general location, topography, characteristics and relationship with adjoining and surrounding property and land uses and its proximity to various services and facilities. Reference will be made to the SHLAA; the information submitted in support of the application and also the Officer's appraisal in the report to Committee.

- Describe the proposals and explain how and why they were revised and refined during the processing of the application. Reference will be made to the proposed access arrangements (vehicular and pedestrian); the amount and location of public open space; the amount of dwelling, including the provision of affordable housing, and the assumed average density.
- Although matters reserved for subsequent approval, the Appellant will also comment upon the indicative layout (as considered by Committee and also as subsequently modified in the re-submission, including potential orientation of dwellings); the opportunities for strategic planting as part of a landscape scheme; potential boundary treatments, including where necessary and appropriate, acoustic fencing; the opportunity for and benefits of a comprehensive master-planned approach to the development; the opportunities for sustainable design and construction and drainage systems.
- Refer to responses to the LPA consultations (statutory, internal LPA and third party) will be considered. In particular, it will be demonstrated that:
 - After carefully considering detailed and audited proposals, the Highways Agency raised no objection to the proposed new roundabout junction on the A49.
 - Shropshire Council's Highways Engineer raised no objection to the proposed vehicular access off Bromfield Road and endorsed the two pedestrian/cyclist footbridge links over the railway and the river.
 - The Environment Agency confirmed that the proposed development would not be in the flood plain and raised no objection to the application. Severn Trent Water and

- Shropshire Council's Drainage Engineers also raised no objection to the application.
- Shropshire Council's Public Protection Officer considered the potential impact of noise and vibration from the adjoining roads and railway and confirmed no objection to the application.
 - Network Rail raised no objection to the principle of development or to the proposed footbridge over the railway.
 - No objections were raised by the Council's Ecologist; the Environment Agency, or any other statutory consultee.
 - Shropshire Council's Historic Environment Team raised no objection to the application in terms of Archaeology or the historic setting of the Town.
 - Shropshire Council's Environment Section raised no objections on Arboricultural or Landscape grounds.
 - Shropshire Council's Planning Policy Section raised no objection to the application.
- The planning policy context will be summarised by reference to:
 - The Development Plan, comprising: the adopted Shropshire Core Strategy (2011) (which does not make land allocations), with specific reference to Policies CS1, CS5, CS7, CS8, CS9 CS10, CS15, CS17 and CS18. and in particular to Policies CS3 and CS6; as well as the South Shropshire Local Plan Proposals Map Inset for Ludlow.
 - The emerging Site Allocations and Management of Development Document (SAMDEV) with reference to Policies MD1, MD2, S10 and S10.1a and in particular, Policy MD3; together with its associated evidence base including: the Strategic Housing Land Availability Assessment (SHLAA); the Strategic Housing Market Assessment (SHMA); Housing

Need and Technical Background Papers, with particular emphasis on Ludlow; the Annual Monitoring Report (AMR); the Housing Land Availability Statement and associated schedules;

- LPA Supplementary Planning Documents (SPD) regarding Affordable Housing and also Open Space;
 - CIL legislation pertinent to Shropshire Council;
 - National Planning Policy Framework (NPPF); and
 - Planning Practice Guidance (PPG).
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- The Appellant will present its case through Evidence delivered by:
 - ADVANCE: in respect of the main planning issues, including sustainability;
 - BERRYS: in relation to issues concerning the housing land requirements, supply, availability and deliverability and with specific reference to a Rebuttal Statement recently submitted to the LPA in support of the second, as yet undetermined application, but updated and refined as necessary. In particular, the degree to which the LPA can demonstrate a deliverable 5 year supply of housing will be referred to;
 - NOISE.CO.UK: concerning the potential impacts of noise.
 - DTPC: concerning transportation (highway safety and the free flow of traffic etc) and associated matters of highway and pedestrian safety and convenience and sustainability.
 - WATERCO: regarding issues associated with flood risk and the outline drainage strategy (if raised by third parties)
 - If the LPA or third parties seek to raise other issues not included in the refusal decision (e.g. landscape, heritage, ecology, arboriculture etc), the appellant reserves the right to bring forward further evidence as necessary and appropriate to address and rebut the matters raised.

- 3.3 The Appellant will prepare a Planning Obligation to secure the provision of 15% affordable housing as required by the LPA and this agreed and completed before the Inquiry.
- 3.4 The appellants will endeavour to agree with the LPA a schedule of suggested planning conditions to be submitted in advance of the Inquiry.

4.0 The Appellants Case

Housing Requirement, Supply and Distribution

- 4.1 The appellant asserts that at present, in the absence of an adopted SAMDEV, the LPA does not have an up-to-date Development Plan.
- 4.2 The Appellant maintains that despite any assertions to the contrary, the LPA cannot demonstrate a deliverable 5 year supply of housing land. It is further maintained that the delivery of new homes, including affordable housing, has fallen below the required housing trajectory for the County as a whole and more specifically for Ludlow, and that the appeal proposal will assist in meeting the identified housing need and in reducing the current under-supply both for market and affordable housing.
- 4.3 As such, the proposals do not prejudice or undermine the objectives of the adopted Core Strategy, nor the relevant policies, most notably Policy MD3 of the emerging SAMDEV, but as acknowledged in the decision notice, will bring: *“benefits in terms of the site contributing to the supply of housing land in Shropshire.”*

- 4.4 It will be shown that the development is capable of making a meaningful contribution towards the housing requirement for Shropshire and more specifically for Ludlow and it will also deliver 15% affordable housing in accordance with the LPA's requirements to meet local needs.
- 4.5 In any event, it is also strongly maintained that the proposals represent sustainable development that should be encouraged in order to boost the supply of housing and economic growth, in accordance with Government policy as expressed in the NPPF.

Location, Accessibility and Sustainability

- 4.6 Ludlow is a major Town and the largest in the southern part of the County. It offers a wide range of services and facilities and it serves an extensive hinterland. It is a highly sustainable location to accommodate new development in the southern part of the County.
- 4.7 It will be demonstrated that Ludlow is constrained by topography, natural and man-made features and other environmental constraints (e.g. heritage considerations) and there is a shortage of readily available sites within the Town to make a meaningful contribution towards the delivery of new housing in the short/medium term.
- 4.8 It will also be demonstrated that the appeal site is in a suitable location within the physical and visual confines of the Town, being surrounded by existing development on three sides and by the A49 by-pass on elevation to the north. It is therefore well-contained by strong, well-defined physical boundaries and it is generally well-related to the adjoining built-up area and despite representing a relatively large expanse of pasture land, it is not readily associated with the open countryside beyond the by-pass.

- 4.9 It will be shown through the appellants own evidence and also by reference to the SHLAA and the Officer's report to Committee, that the site is suitable for housing and that the development will have no significant or detrimental impact upon the visual amenity of the immediate surroundings, or the historic character and setting of the Town, nor the wider open countryside. In this respect, it represents a somewhat rare development opportunity within the confines of the Town that can now be unlocked and enabled, by the provision of safe, convenient and appropriate means of vehicular and pedestrian access.
- 4.10 It will be demonstrated that the proposed new highway junction arrangements, via a new roundabout off A49 and also via a right-turn priority junction off Bromfield Road have been agreed with the Highways Agency and the Local Highway Authority respectively, and will provide perfectly safe and acceptable means of vehicular access new development.
- 4.11 It will also be demonstrated that the proposed new footbridges are acceptable to the Highway Authority and also Network Rail and subject to detailed design and specification, are capable of providing perfectly safe and convenient means of access over the river and the railway, for pedestrians (including the disabled) and cyclists alike.
- 4.12 It will be shown that development will provide a significant area of open space in the form of a riverside park and also a modest neighbourhood store, not only for the benefit of future occupiers, but also existing residents in the locality.

- 4.13 It will be demonstrated that the development will be readily accessible to the primary and secondary schools and the leisure centre immediate to the west of Bromfield Road, as well as the local bus service along this road, into the Town Centre, which itself is within walking and cycling distance.
- 4.14 It will be highlighted that the pedestrian footbridges will also provide for greater east-west connectivity through this northern part of the Town, linking existing development to the east of the site, with the existing social and community facilities on the east side of Bromfield Road.
- 4.15 It will be demonstrated that the appeal proposal is no less and in many ways is more accessible and represents a more sustainable development opportunity than either of the two main housing proposals identified in the SAMDEV - both the east of the A49 by-pass at Rocks Green and The Sheet. It will further be shown that the LPA's assertions are misguided and represent an inconsistent assessment when compared with its own proposed housing allocations.
- 4.16 It will therefore be clearly proved that the development would be readily and safely accessible and that it represents an entirely suitable, appropriate and sustainable location for new residential development that accords with Core Strategy Policies H6 and MD3.
- 4.17 The Appellants will demonstrate that the development is compatible with the economic, social and environmental components of sustainability referred to in the NPPF.

Public Safety and Amenity

4.18 The appellant will demonstrate that the proposed access arrangements will be perfectly safe and that through the careful design of the layout, boundary treatments and landscaping of the new development and open space, there is no reason to suggest that the proximity of the site to the A49, the River Corve, or the railway, will be detrimental to the safety and amenity of future occupiers.

4.19 It will also be demonstrated in evidence provided by the appellants acoustic consultants (as previously ratified by the Council's Public Protection Officer) that any noise and disturbance caused to future occupiers of the development from road traffic on the A49, or the use of the railway line, will not be significant and in any event, can be mitigated through careful detailed design (the siting and orientation of dwellings, means of enclosure such as acoustic fencing and landscaping, etc), so as not be unacceptable or justify a refusal of outline consent.

Other Considerations

4.20 The appellant will confirm that the proposed development will be within Flood Zone 1 (1/100 year plus climate change) and that through a combination of sustainable urban drainage measures, the discharge of surface water from the development into the river can be attenuated to an agreed greenfield run-off rate, at or below the existing run-off rate, so as not to increase but potentially actually decrease the likelihood of flooding downstream.

- 4.21 The appellant will refer to information submitted in support of the application to demonstrate that: the proposed development will not have a harmful impact upon the setting of the Town or the wider landscape; it will not have a detrimental impact upon protected species or protected trees or other significant vegetation and; ecological and arboricultural interests can be enhanced through planting and other measures associated with the development.

5.0 Conclusions

- 5.1 The NPPF aims to encourage economic growth through sustainable development including a significant improvement in the delivery of new homes, which is urgently needed in Shropshire and more particularly in Ludlow.
- 5.2 The Appellant will demonstrate that the proposals will make a meaningful contribution to the three dimensions to sustainable development, by performing valuable economic, social and environmental roles, by generating economic investment and providing new homes (including affordable housing); commercial/retail premises, and significant community open space on a site which is within the visual and physical confines of the Town.
- 5.3 This appeal proposal clearly represents sustainable development within the confines of the largest market town in South Shropshire. In the absence of a complete and up-to-date Development Plan; the lack of a five year supply and the benefits of the proposals, which will clearly outweigh any potential adverse impacts, it will be strongly maintained that the presumption in favour of sustainable development ought to be applied to the proposals.

- 5.4 The proposals will deliver a good mix of homes high quality homes, including affordable housing, together with a substantial area of open space that could form an attractive riverside park and an enhanced ecological resource as well as an element of commercial (retail) use.
- 5.5 The appellant will demonstrate that the proposals are technically feasible and environmentally acceptable and are capable of being delivered to create an attractive and sustainable development of new housing and extensive public open space, in an accessible location that is within the physical and visual confines of the Town.
- 5.6 In summary, the appeal site represents a sustainable location within the physical and visual confines of the town, which is well-suited to accommodate much needed residential development. The proposals will deliver economic, social and environmental benefits and therefore should be considered on its merits, within the context of the NPPF presumption in favour.
- 5.7 In the circumstances, the appellant will maintain that there are compelling grounds for approving the appeal subject to appropriate conditions and the Planning Obligation to secure 15% affordable housing.