

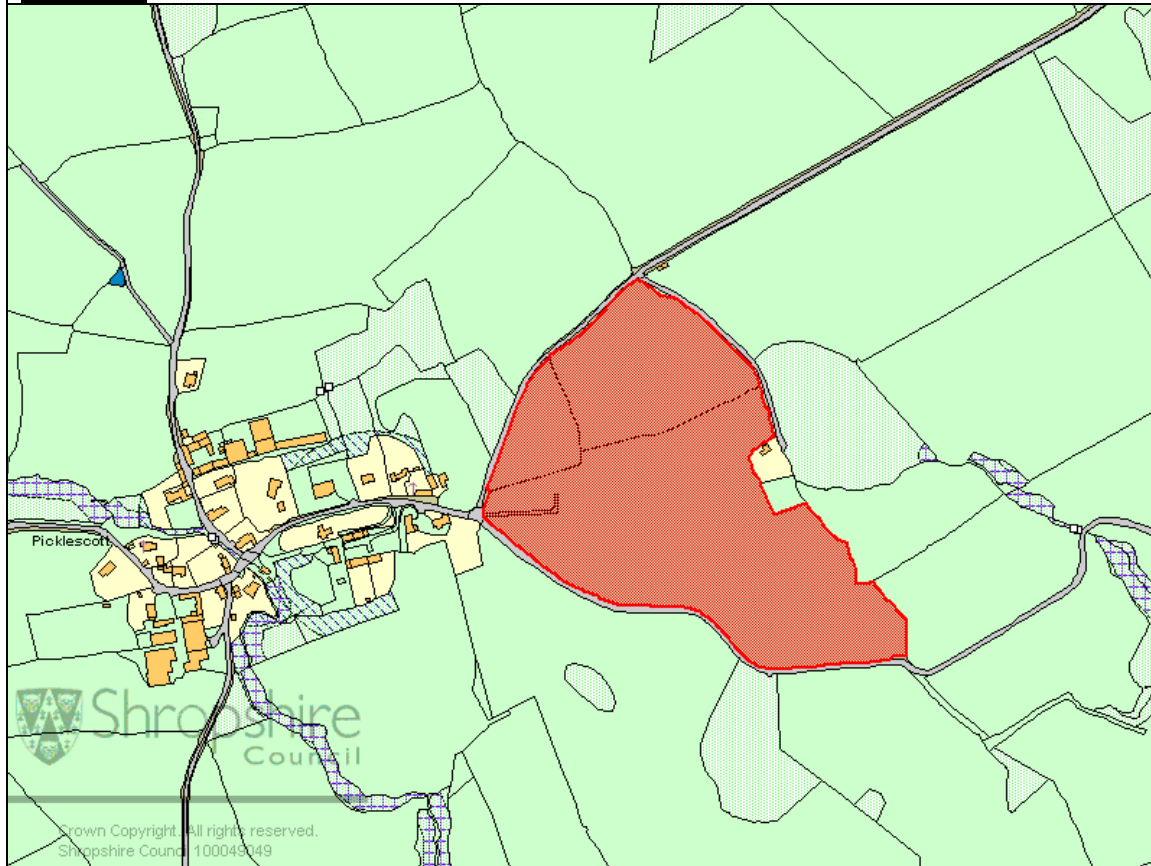
Development Management Report

Responsible Officer: Stuart Thomas
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Summary of Application

Application Number: 11/04213/FUL	Parish:	Smethcott
Proposal: Erection of an affordable dwelling (single storey)		
Site Address: Karuna Picklescott Church Stretton SY6 6NT		
Applicant: Mr & Mrs J. Wheelhouse		
Case Officer: Dyanne Humphreys	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 343859 - 299571



Recommendation: Grant Permission subject to the conditions sets out in Appendix 1.

Recommended Reason for Approval

The site is judged to be sufficiently close to Picklescott to be considered acceptable. Furthermore, the applicants are in housing need and have demonstrated strong local connections to the area. The design for the dwelling is bespoke for this sensitive site within the Shropshire Hills Area of Outstanding Natural Beauty and embraces the permaculture ethos being practiced at this holding. It will make a positive addition to the County's pool of affordable housing for local people in perpetuity. In arriving at a favourable decision the Council has taken into account the following policies:

Government Policies

PPS1: Delivering Sustainable Development

PPS3: Housing

PPS7: Sustainable Development in Rural Areas

Regional Spatial Strategy

CC1: Climate Change

RR1: Rural Renaissance

CF5: Delivering Affordable Housing and Mixed Communities

PA10: Tourism & Culture

PA15: Agriculture & Farm Diversification

QE1: Conserving & Enhancing the Environment

Shropshire Council Core Strategy

CS5: Countryside & Greenbelt

CS6: Sustainable Design & Development

CS11: Type & Affordability of Housing

Supplementary Planning Documents

Housing - Type and Affordability of Housing, adopted 16th March 2011.

REPORT

1.0 THE PROPOSAL

- 1.1 This application is for the erection of an affordable dwelling to meet the needs of an identified person in local housing need. The application is made under the Council's adopted supplementary planning guidance, Housing – Type and Affordability of Housing, adopted 16th March 2011.
- 1.2 The proposed dwelling is to be single storey and have a circular floor plan. The walls are to be constructed on straw bales and the roof is to be turf.
- 1.3 The floor area is not more than 100 square metres and it provides a three bedroomed dwelling. Access is existing from the public highway and along an unmade track.
- 1.4 The application, if considered for approval, would need to be subject to a section 106 agreement to ensure the dwelling remained as affordable accommodation for local people in perpetuity.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 Picklescott is situated 7 miles south of Shrewsbury off the A49 and 3 miles north of Church Stretton close to the Long Mynd; it is within the Shropshire Hills Area of Outstanding Beauty. The general character of the area is open countryside.
- 2.2 Picklescott offers some limited services; it has a Village Hall and a public house known as the Bottle and Glass Inn, both are situated in the centre of the village. The character of the village is nucleated.
- 2.3 The application site is a relatively flat parcel of land within an 18 acre holding. The holding contains a significant number of recently planted trees that are the basis of the applicant's permaculture project.
- 2.4 The land contains a public footpath that runs near to the proposed dwelling, and it is likely that the dwelling may be partially visible from the public footpath; however, from all other public views the property will not be visible.

3.0 SUMMARY OF SITE HISTORY

- 3.1 The site has a relatively recent planning history; it is summarised below:
- the applicants sited and occupied a caravan on the land without planning permission;
 - the Council served an Enforcement Notice on the 17th October 2007;
 - the applicants appealed the Enforcement Notice on ground (a);
 - the appeal was dismissed by the Planning Inspectorate on the 12th January 2009;
 - the Planning Inspectorates decision was challenged in the High Court and the High Court upheld the Inspectors decision; this was decided on the 21st October 2010.
- The Enforcement Notice requires the applicants to cease the use of the land for residential purposes and remove the caravan from the site; the period for compliance with Enforcement Notice expired on the 21st September 2011.
- 3.2 This current application was received by the Council on the 18th September 2011 and, in response, the Council has deferred any further legal action pending resolution of this proposal.

4.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 4.1 In accordance with the Council's scheme of delegation, the Local Member has requested that this application come before Committee for formal determination due to the local interests that there is in this proposal.

5.0 COMMUNITY REPRESENTATIONS

5.1.0 Consultee Comments

- 5.1.1 Smethcott Parish Council - Comment: this application was discussed by the Parish Council at a Special Meeting held on 7th November. Members of the Parish Council have visited the site and were impressed with the land management techniques being carried out on site. However, they consider the work carried out on site to be a separate issue and do not consider that this should influence the decision as to whether or not planning consent should be given under the Single Plot Exception Site Scheme.

After much discussion Councillors agreed that this was a very complex application which was clouded by the issue as to whether the Parish Council actually agreed with the Housing Enabling Officers decision that the applicant was eligible to apply under the Single Plot Exception Scheme.

Part of the applicants justification relates to their claimed need to live on the site to look after their enterprise The Parish Council have always maintained that the enterprise is a lifestyle choice rather than a necessity to live on site.

After much discussion it was proposed that although the Parish Council were very impressed with the permaculture project they did not agree that there was a need to actually live on site and the Parish Council should object to the application. Due to the complexity of this application it proved difficult to reach a unanimous decision.

One Councillor had declared a personal and prejudicial interest as he is a neighbour of the applicants and left the room when the application was discussed. This left five voting Councillors. When the vote was taken three Councillors voted in favour of the proposal and two Councillors voted against the proposal.

5.1.2 SC Highway Officer - I have considered the amended plan submitted by the agent and I can confirm that he has drawn what I consider to be essential to make the access safe for its intensified use. In view of this amendment, I raise no highway objections to permission being granted for the scheme subject to the imposition of a condition requiring the necessary improvements to be made to the access prior to the occupation of the dwelling.

5.1.3 SC Housing Enabling & Development Officer - I can confirm that the applicants have demonstrated strong local connections to the administrative area of the All Stretton, Smethcott and Woolaston Parish. After considering their housing needs and personal circumstances, I have determined that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.

The Local Housing Need elements of this application were established as follows from information presented to me by the applicants in June 2011:

Mr and Mrs Wheelhouse intend to construct a 100 sq m highly sustainable affordable dwelling at the above site to occupy as their long-term home. This dwelling will be subject to a Section 106 Agreement prescribing local occupancy criteria and also restricting the potential future sale value.

They currently live in a mobile home/caravan on the site which is unsuitable in design and size for the family. Notwithstanding the issues surrounding their current occupation, they have established a strong local connection to Picklescott in that they have lived on the site since Sept 2007.

Mr Wheelhouse is self employed and runs an agricultural business from this site. The nature of this business requires Mr Wheelhouse to have an on site presence due to long working hours.

Mrs Wheelhouse requires support due to health issues. Mr Wheelhouse as main carer offers that support and needs to be available at all times. This can be achieved if the home and business are on the same site.

Mr and Mrs Wheelhouse have therefore established a need to live in Picklescott but due to issues of affordability they are unable to meet their own housing needs in the area without assistance through this Policy.

- 5.1.4 SC Planning Ecologist - I have received clarification from the agent Mr Philip Pool that the pool I identified is actually 108m from the proposed development. This pool therefore falls outside of the threshold area requiring a Great Crested Newt survey. No newt survey is now required. Informatives to be included.
- 5.1.5 SC Drainage Officer – Requested the imposition of conditions to secure satisfactory surface water disposal.
- 5.1.6 SC Rights of Way Officer - Having checked the Definitive Map of Public Rights of Way footpath No 21 does cross what appears to be the proposed access to the site. This footpath has to remain open and available for usage at all times.
- 5.1.7 AONB Officer - The Shropshire Hills AONB Partnership feels that this proposal would have no detrimental effect on the landscape of the AONB and therefore has no objections to this application.

The Council's Council 'Build your own affordable home information pack' refers to taking the AONB Management Plan into account. The most relevant section of the Management Plan is as follows:

“Low-impact forms of development (e.g. buildings using traditional, locally sourced and low embodied energy materials) have potential to fit well with the AONB's purposes. This is especially so where they are associated with sustainable lifestyles including low energy and resource use, small-scale land management using sustainable approaches to food or wood production and with community or educational uses. Guidance and regulation will remain important to ensure compatibility with landscape, local community and other considerations. There is a case however that such development may be suitable in locations where higher impact forms of development would not be allowed. Progress is desirable to enable the planning system to assess such developments more broadly in relation to sustainable development and meeting the need for affordable housing.”

We consider that the proposed development has sustainability benefits and is in line with the AONB Management Plan.

5.2.0 Public Comments

- 5.2.1 The application has, at the time of preparing the report, received 102 letters of support and 7 letters of objection. The supporting comments have been received from near and far, with 2 being from residents within the village.
- 5.2.2 The letters received in support wholeheartedly praise the permaculture venture undertaken at the site and also applaud the low impact dwelling being proposed; below are a small sample of the comments received:

- low impact dwelling with carbon neutral footprint;
- the building exemplifies low-impact sustainability principles, and when incorporated with the site as a whole, signifies what a Code 6 sustainable home should really be;
- very sustainable life-style;
- positive contribution to the environment;
- significantly increased biodiversity replacing previous monoculture;
- significantly improved wildlife habitat;
- proposed dwelling has ecological advantages over traditional building types;
- the dwelling will be an exemplar for sustainable living;
- this application is an affordable home that will add value to the local community
- low carbon, low impact houses, such as straw bale construction, create a lot of interest, and are the way forward in 2011.
- the way forward in these hard economic times for rural communities is small scale, local, diverse enterprises; this scheme fits this bill wonderfully
- Small rural enterprises have been recently described by the government as being 'cornerstones of the rural economy'. Karuna does not simply employ and support one family; it also employs many course leaders who in turn train many people in subjects and skills that attendees can use for their own businesses, low impact lifestyles and community food projects.

5.2.3 The letters received in opposition to the proposal make the following main points:

- the land is outside the village envelope;
- the site has a history of refusals for planning permission;
- the village is a well known beauty spot the proposed dwelling is not sympathetic to the existing house construction;
- a business positioned/based at this location would be detrimental to existing tourist businesses (B&B and Public House);
- the applicants originate outside the area;
- the applicants have failed to comply with a confirmed enforcement notice and now seek to rely on their unlawful use of this land to allegedly justify the criteria for affordable homes for local people.
- there is a family house only a short distance away in Picklescott itself which has been offered for sale for many months
- of wider concern is the potential precedent which is being set;
- Straw bale walls and a turf roof have never been the vernacular materials of choice in Picklescott
- the need to live on site to tend plants and livestock (ducks) may be desirable but is not essential
- Within a radius of 3 miles or so there are a number of houses available for rent or purchase;
- The development of a tree nursery or plant growing enterprise on 17 acres cannot be considered a viable full time business warranting the construction of a house.
- The applicants are not local and do not need to live on this site or in this area; they have no local connections which might invoke an exception

6.0 THE MAIN ISSUES

- Principle of development:~
 - (a) does the applicant fulfil the policy with regard to being in local housing need and having strong local connections; and
 - (b) is the site judged to be within or adjoining a settlement?

- Scale and Design
- Impact on the Shropshire Hills Area of Outstanding Natural Beauty
- Impact on highway safety
- Impact of surface water drainage
- Impact on biodiversity/ecology
- Other considerations including affordability in perpetuity and land management

7.0 OFFICER APPRAISAL

7.1 Principle of development

7.1.1 This application is made under the Council's adopted affordable homes for local people: exception site policy. "Exception sites" are in locations that would not normally obtain planning permission for new housing development. The exception is made because it is development of affordable housing for local people.

7.1.2 In terms of appraising development made under this policy there are two quite distinct sections:~

- the applicant's specific housing need and localness, and
- the sites relationship to the settlement

The report shall explore each of these aspects in detail.

7.1.3 Firstly – Does the applicant fulfil the policy with regard to being in local housing need and having strong local connections?

7.1.4 In this regard to applicants have been interviewed by the Councils Housing Officer and the application has received support from this team.

7.1.5 In order to qualify for this scheme, applicants must be in housing need, be unable to access a suitable home currently available in the area and need to live locally, and have strong local connections.

7.1.6 For sake of clarity the policy requirement are set out below:~

"For single plot exception sites, applicants must demonstrate the following points to the satisfaction of the Housing Enabling Officer:

(1) That they are in housing need and either cannot afford to purchase a suitable home currently available in the local area or cannot identify a suitable home in that area that meets their needs to rent or buy. Housing need is demonstrated if the household unit has no independent home of its own, or is renting from a Council or Registered Provider and would like to become an owner-occupier, or occupies accommodation deemed to be unsuitable for their needs for some other reason. For example, the current housing may be too large or too small for the household; be in a poor state of repair; or be too costly for the household to maintain or sustain. It may be in a location that is considered to be too far from existing employment, schools or support networks and the cost or availability of transport may be prohibitive to the particular household.

(2) That they have a strong local connection to the area (as set out later in this SPD). Applicants are expected to be proactive in obtaining confirmation of their 'local connection' from the local Parish or Town Council.

(3) That their housing need should be met in the local area. This is met if:

- they need to live in the local area for employment reasons, or

- they need to live in the local area to receive or provide support to / from a close relative, including (but not limited to) childcare or supporting an elderly or disabled relative, or
- they can demonstrate with evidence active community involvement for a minimum period of 2 years.”

7.1.7 It is also important as part of the assessment of this application to have an understanding of the Council’s definition of “strong local connection”; this is met provided the applicant’s meet 2 of the following:~

- their parents were permanently resident in the local area at the time of the applicant’s birth;
- they were a permanent resident of the local area for at least five years as a child, and attended a local school;
- they are currently permanently resident in the local area;
- they have previously lived in the local area for 15 continuous years as an adult;
- they are currently employed or usually carry out self-employed work within 5km of the settlement or the parish;
- they have a confirmed written offer of permanent full-time work in or close to the settlement (within 5km) or the parish;
- their parents currently live in the local area, or another close family member who provides or requires a substantial degree of support currently lives in the local area;
- if over 55, they have a close family member currently living in the local area, or they can demonstrate with written evidence active community involvement sustained for at least the previous 2 years. “

7.1.8 In applying these criteria to the applicants in this specific case the following judgements have been made.

7.1.9 The applicants situation with regards to need is as follows:

- they either cannot afford to purchase a suitable home currently available in the local area or cannot identify a suitable home in that area that meets their needs to rent or buy
- the household unit has no independent home of its own; and
- the applicants currently occupy accommodation deemed to be unsuitable for their needs

As such they are judged to be in housing need.

7.1.10 The applicant’s situation with regard to strong local connections is as follows:

- they are currently permanently resident in the local area;
- they are currently employed or usually carry out self-employed work within 5km of the settlement or the parish; and,
- a family member who requires a substantial degree of support currently lives in the local area.

The policy requires applicants to meet 2 of the list provided above; in this instance the applicants have made a case that meets 3 of the list and as such they are judged to have strong local connections. In line with the policy requirements

7.1.11 Even if members do not accept the requirement relating to providing support and/or care for a close family member; in this case Mr Wheelhouse is the primary carer for Mrs Wheelhouse, the applicant’s still meet 2 of the requirements which is in line with the adopted policy.

- 7.1.12 It is also argued that the caravan is both temporary and unauthorised and as such their occupation cannot be said to be “permanent”. Legal advice has been taken on this point, and the Council’s legal team have confirmed that the applicants comply with the policy in terms of living permanently as a matter of fact and in the ordinary meaning of the words.
- 7.1.13 It is a fact that the occupants have lived permanently at this site for 4-years plus, and that they have no other residence. The Council’s SPD does not offer any definition of this requirement, and as such it would be unsound to define “living permanently” in any other way other than the ordinary meaning of the words.
- 7.1.14 The applicants situation with regard to their housing need being met within the locality is further supported if they meet one of the following:
- they need to live in the local area for employment reasons, or
 - they need to live in the local area to receive or provide support to / from a close relative, including (but not limited to) childcare or supporting an elderly or disabled relative, or
 - they can demonstrate with evidence active community involvement for a minimum period of 2 years.

In this instance all 3 of the above criteria are judged to have been met in this case.

- 7.1.15 Secondly – Is the site judged to be within or adjoining a settlement?
- 7.1.16 The Council’s Core Strategy Policy CS11 permits, “exception sites for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and Other Key Centres, Community Hubs, Community Clusters and recognisable named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.”
- 7.1.17 Additionally, the Council’s Core Strategy Policy CS5 allows such homes in the countryside “on appropriate sites which maintain and enhance countryside vitality and character”.
- 7.1.18 In this regard, Picklescott is a settlement that can be regarded as being suitable to accommodate a limited quantity of affordable housing in response to identified local need. It is a settlement that offers a range of services including a village hall, a local pub and it is within zone 6 of the Shropshire Link bus service which runs a service from Picklescott to Shrewsbury and back 2 days a week.
- 7.1.19 In relation to this specific site it is removed some short distance from the settlement; it is approximately 120 metres (as the crow flies) to the public highway and a further 120 metres to the village hall. The total distance being approximately 0.14 of a mile from the village hall, a very easy walk.
- 7.1.20 Whilst the site is clearly not “within”, there is scope to interpret the site as being “adjoining”. The SPD allows sites to be assessed on their merits and acknowledges that the bigger the settlement to wider “pull” or “Sphere of influence” can be taken into account. Picklescott is clearly not a large settlement, but the “pull” may be permitted to extend 240 metres from the village hall.

- 7.1.21 It is also worth, at this point giving some weight to the permaculture project. The application has not been made on the basis of a rural occupational workers dwelling under PPS7, so the financial and functional viability of the venture have not been tested as part of this application.
- 7.1.22 However, in terms of the site of the proposed dwelling selected by the applicant some consideration can be given to the requirements of the project. Having discussed with the applicant the selected site it was explained that the proposed dwelling is sited in proximity to the existing buildings to minimise the spread of structures within the landscape, and located centrally within the project for effective management.
- 7.1.23 Furthermore, the design of the dwelling is such that it lends itself to a location removed from the village centre.
- 7.1.24 Therefore in terms of the principle of development, having applied the criteria as set out in the Council adopted SPD on the Type and Affordability of Housing, the applicants appear to comply, and as such the site is considered to be suitable for this development in response to the applicants' specific identified local need.

7.2 Scale and Design

- 7.2.1 In terms of scale the property has a floor area not greater than 100 square metres and as such it is considered to be of an appropriate scale.
- 7.2.2 In terms of design it is accepted that the design is not of the traditional vernacular; it is a circular structure to be made from straw bales with a turf roof. However, just because it is not typical isn't a reason for refusal. PPS1 gives further advice on design.
- 7.2.3 PPS1 states: Local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.
- 7.2.4 Furthermore, there is an emphasis on building sustainable developments that encourage the prudent use of natural resources. Local Authorities are encouraged to promote resource and energy efficient buildings, small scale renewable and low carbon energy schemes in developments and the sustainable use of water resources including the use of sustainable drainage systems in the management of run-off.
- 7.2.5 In this case it is clear the design has been given considerable thought and it is a bespoke project designed specifically for the site. The dwelling has been designed to be sympathetic to its setting, and be compliant with CSH level 3, as well as the Lifetime Homes Standard.
- 7.2.6 In addition, the dwelling has been designed to be low carbon, sustainable, and unobtrusive, in tune with the Permaculture Project and the site itself, close to nature. Permaculture aims to produce natural systems that are virtually self-sustaining and into which humans fit as an integral part. This philosophy impacts on the design of the house itself.

7.2.7 Whilst it is accepted that the design is not of the local vernacular, given its location within the wider permaculture venture being undertaken by the applicants, the design is considered to be appropriate for this location.

7.2.8 It is clearly not poor design, and its impact on resources will be minimal. It is my planning judgment that a refusal on design grounds would be difficult to substantiate in the event of an appeal being lodged.

7.3 Impact within the Shropshire Hills Area of Outstanding Natural Beauty

7.3.1 In response to this issue advice from the AONB office has been sought and their response is detailed in paragraph 5.1.7 above.

7.3.2 The single storey nature of the proposal, coupled with the sympathetic use of materials will assist the structure to be easily assimilated into the wider landscape.

7.3.3 That being said there are very few public places from which the site can be seen, the most prominent is the public foot path that runs near to the site.

7.3.4 The AONB not only raise no objection to the dwelling itself, but also welcome the sustainable lifestyle of the entire project including the permaculture venture which wholly embraces the low energy and resource use, small-scale land management using sustainable approaches to food or wood production and with community or educational uses.

7.3.5 Therefore in terms of the impact on the sensitive landscape the proposal is judged to be acceptable and appropriate with the project as a whole being viewed as a positive addition in its wider context.

7.4 Impact on highway safety

7.4.1 With regard to the impact on the highway the Council's Highway Development Control Officer has considered the proposal and following an amendment to the access layout requiring the gate to be inset the scheme is considered to be acceptable. The Officers comments are set out in paragraph 5.1.2 above.

7.4.2 A condition has been included to ensure that the access is constructed in accordance with the Council's Highway Officers requirements.

7.5 Impact on surface water drainage

7.5.1 This aspect of the scheme has been considered by the Council's Land Drainage team. They have raised no objection to the proposal subject to the imposition of a condition to ensure that flows are mitigated.

7.6 Impact on biodiversity/ecology

7.6.1 The application has been considered by the Council's Planning Ecologist and no objections have been raised in relation to the development of the site as proposed from an ecological perspective.

7.6.2 Informatives have been included to advise on such matters as nesting birds, bats, and great-crested newts.

7.7 Other Considerations

- 7.7.1 There has been some disquiet as to whether or not the dwelling proposed, which is not conventional, lends itself to being affordable in perpetuity.
- 7.7.2 In terms of the land associated with the dwelling, this would not be subject to the restriction; the 106 agreement would relate only to the 0.1 hectare of the land parcel which accommodates the residential unit.
- 7.7.3 In terms of the construction, the house would be required to meet current Building Regulations in line with any other construction; and in relation to the design, whilst being unconventional, future occupants in local housing need would be unlikely to be put off by the design which embraces low running costs.
- 7.7.4 The distance from the public highway is approximately 120 metres; this is not prohibitive in terms of the affordability aspect, nor is it unusual.
- 7.7.5 Therefore in terms of the dwelling that is being proposed there are no issues with it being successfully added to the pool of affordable homes for local people in perpetuity.
- 7.7.6 A further aspect of the scheme that needs to be given weight is the permaculture project being undertaken by the applicants on the 15 hectares that is within their ownership.
- 7.7.7 Whilst it is accepted that this application has not been made on the basis of a rural occupational workers dwelling there are clearly aspects of the development being undertaken at Karuna that can be given weight.
- 7.7.8 The applicants have invested considerable time and finance into this venture and the project clearly benefits from having accommodation on site; in terms of site security, site management, and reducing the need to travel on a daily basis.
- 7.7.9 If members might be more inclined to view favourably an application for an occupational workers dwelling, the current policy requires any new occupational workers dwellings that in time might become no longer needed to oversee the management of the land to default to an affordable house.
- 7.7.10 The application is made as an affordable dwelling; however, there are site specific operations to do with the wider land management aspect of this site that can be given weight in arriving at a decision.

8.0 CONCLUSION

- 8.1 It is appreciated that the site has a recent planning history that has resulted in the Council taking formal action to secure the removal of a residential caravan. The decision in relation to the caravan has been made. This current scheme however is for an affordable dwelling. As such, a different set of policies prevail and whilst the Council have opposed the siting of a caravan, it is quite reasonable to arrive at a favourable decision when considering an affordable dwelling.
- 8.2 There is some concern locally that the applicants are perceived as “getting away with it”. However, what the Council currently has before it today is very different

from what has gone on before. The control of development is not a punitive process and if the current scheme is judged to comply with current policy a favourable outcome should result.

- 8.3 Although the scheme is not a text-book example of an affordable house, the policy framework has sufficient flexibility to enable unconventional proposals that broadly meet the criteria to come forward and receive support.
- 8.4 The site is in close proximity to Picklescott. Whilst it does not share any immediate boundaries with neighbours, it is sufficiently close to benefit from the services available within the settlement.
- 8.5 Although this is a sensitive site within the Shropshire Hills Area of Outstanding Natural Beauty the dwelling has been designed to blend into the landscape and potential detrimental impacts have been mitigated by use of careful design.
- 8.6 The site has been selected to benefit from its relationship with Picklescott as a settlement offering a range of services, but also to benefit the permaculture enterprise being undertaken on the site; the result is a very sustainable form of development.
- 8.7 In conclusion the scheme is supported and recommended for approval subject to the required Section 106 agreement to ensure the property remains affordable in perpetuity.

9.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

9.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

9.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

9.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

10.0 FINANCIAL IMPLICATIONS

There are likely financial implications of the decision and/or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.

11. BACKGROUND

RELEVANT PLANNING HISTORY:

09/00454/AGR Erection of a polytunnel REFUSED 8th June 2009

10/01833/AGR Erection of an agricultural storage building including the storage of a metal storage container and use as workshop REFUSED 18th May 2010

10/01850/AGR Erection of a polytunnel REFUSED 18th May 2010

SA/07/0804/AGR Erection of a polytunnel APPEAL DISMISSED 28th June 2007

SA/07/0006/F Erection of a metal container for agricultural storage. (Retrospective) REFUSED 1st March 2007

SA/06/1560/F Erection of a partially timber clad agricultural storage barn extended with additional bay to house metal storage container and laying of access (part retrospective) PERMITTED 11th December 2006

SA/06/0832/F Erection of agricultural building for storage, 2 metal storage containers and laying of access. (Retrospective) REFUSED 16th August 2006

SA/05/1522/AGR Erection of a Dutch Barn ALLOWED 17th November 2005

Appeal - 10/01788/REF Erection of an agricultural storage building including the storage of a metal storage container & use as workshop ALLOWED 14th October 2010

Appeal - 10/01789/REF Erection of a polytunnel ALLOWED 14th October 2010

Appeal - SA/APP/07/0222/ENF Enforcement Appeal IN PROGRESS 12th January 2009

Appeal - SA/07/0143/ENF Karuna IN PROGRESS 12th January 2009

Appeal - SA/APP/07/0804/AGR Erection of a polytunnel DISMISSED 12th January 2009

12. Additional Information

List of Background Papers - 11/04213/FUL

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Tim Barker

Appendices - APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings.
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Prior to the commencement of development a detailed scheme for the disposal of surface water drainage from the proposed development is to be submitted to and approved in writing by the Local Planning Authority this shall include percolation tests and soakaways designed to meet BRE Digest 365. The approved scheme shall be fully implemented before the dwelling hereby permitted is occupied.
Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

4. The access shall be constructed in accordance with the approved plan prior to the dwelling being first occupied.
Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-
 - extension to the dwelling
 - free standing building within the curtilage of the dwelling
 - addition or alteration to the roofReason: To enable the Local Planning Authority to control the development and ensure the building remains of a size that is affordable in line with the Council's adopted policy.

Informatives

1. The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards. Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times. Building materials, debris, etc must not be stored or deposited on the right of way. There must be no reduction of the width of the right of way. The alignment of the right of way must not be altered. The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged. No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.
2. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive
Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of birds nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.
3. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended). If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.
4. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
5. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (General Development Procedure) Order 1995 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee to be paid is £85 per request (or £25 where the related permission was for householder development). The fee is payable per request. Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.
6. **THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL** under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.