

## Development Management Report

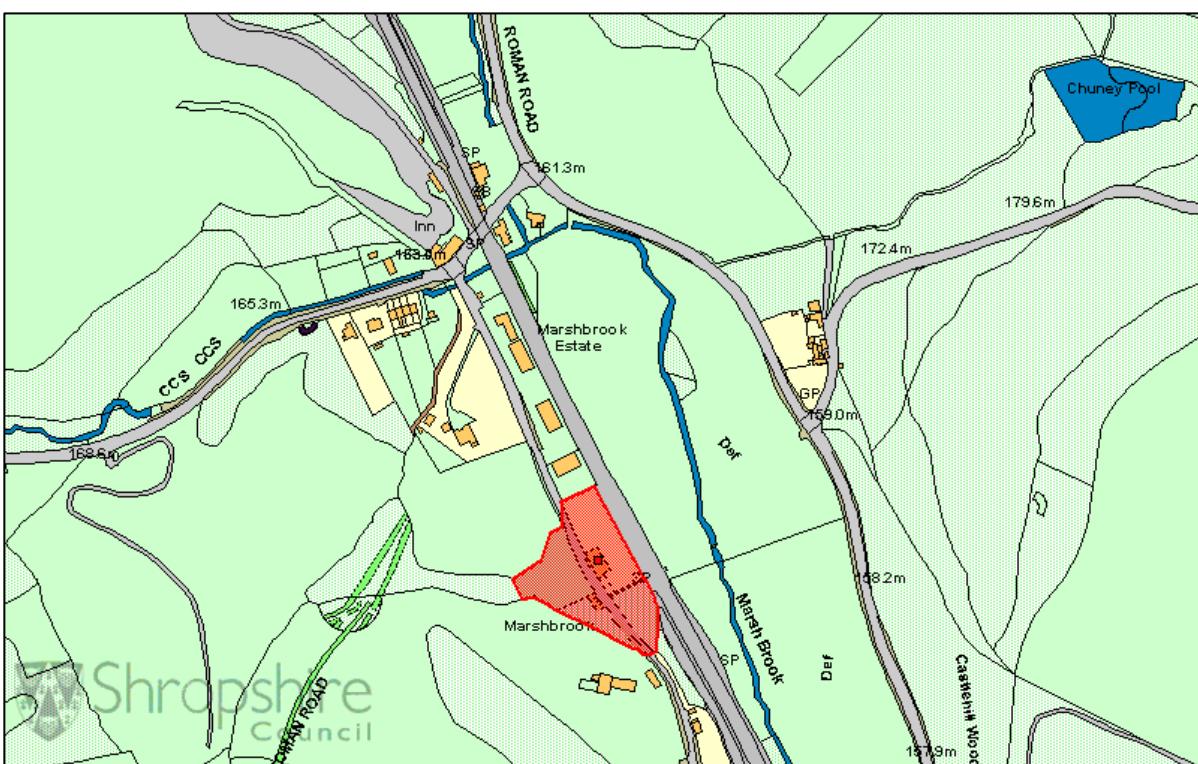
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### SUMMARY OF APPLICATION

<b>Application Number:</b> 12/01277/FUL	<b>Parish:</b>	Wistanstow
<b>Proposal:</b> Change of use and extension of dwelling to form residential parent and child assessment centre; conversion and re-roofing of garage to form meeting room and indoor play area; formation of two car parks; installation of replacement septic tank (amended plans)		
<b>Site Address:</b> Mowbray Lodge Marshbrook Church Stretton Shropshire SY6 6QE		
<b>Applicant:</b> Mr Gary Keeley		
<b>Case Officer:</b> Trystan Williams		<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>

**Grid Ref:** 344279 - 289616

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## **RECOMMENDATION**

Grant permission subject to the conditions set out in Appendix 1.

## **RECOMMENDED REASON FOR APPROVAL**

The development is acceptable in principle since it involves small-scale economic development through the reuse of an existing rural building which, in planning terms, is suitably located. The proposed extensions are judged to be in scale and character with the existing property and its surroundings, and the scheme would cause no significant harm to the visual or residential amenities of the area or to the arboricultural or ecological value of the site. Furthermore, the proposals for foul and surface water drainage are considered satisfactory. On balance, therefore, it is considered that the application conforms to the provisions of the development plan insofar as they are relevant, and no other material considerations, including those raised in representations, were considered to outweigh the policies of the development plan. In determining the application the Local Planning Authority gave consideration to the following policies:

National Planning Policy Framework:

Part 3: Supporting a prosperous rural economy

Part 4: Promoting sustainable transport

Part 7: Requiring good design

Part 8: Promoting healthy communities

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Local Development Framework:

Core Strategy Policies:

CS1: Strategic Approach

CS5: Countryside and Green Belt

CS6: Sustainable Design and Development Principles

CS7: Communications and Transport

CS8: Facilities, Services and Infrastructure Provision

CS11: Type and Affordability of Housing

CS13: Economic Development, Enterprise and Employment

CS17: Environmental Networks

CS18: Sustainable Water Management

Supplementary Planning Documents:

Type and Affordability of Housing

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application seeks full planning permission to change the use of the above property from a dwelling house to a residential parent and child assessment centre. It is also proposed to erect a first floor extension to the southeast side and a two-storey extension behind, to construct a pitched roof over a detached garage block which would be converted into a store and meeting and play rooms, to form car parks on land opposite and alongside the house, and to install a replacement septic tank.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The site straddles a lane/bridleway which runs southwards from Marshbrook, a small village in a narrow valley approximately 3 miles south of Church Stretton, within the

Shropshire Hills Area of Outstanding Natural Beauty. The house stands on the eastern side and has a double-pile plan with an elongated two-storey range at the front and a slightly taller but shorter parallel range behind. The walls are of painted brick under hipped natural slate roofs. A footpath runs along the southern side and across the railway line behind. Opposite is a comparatively modern flat-roofed garage block cut into gently rising ground on which one of the proposed car parks would be formed. Besides a scatter of dwellings further along the lane, small industrial units to the immediate north and the main nucleus of the village beyond, the site is surrounded by open fields and pockets of woodland.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council's objection is contrary to the recommendation of Shropshire Council's officers, and the local member is of the view that the application raises significant material considerations. In accordance with the Council's adopted 'Scheme of Delegation' the application is therefore referred to the planning committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **CONSULTEE COMMENTS**

**4.1 Shropshire Council Flood and Water Management Team:**

**4.1.1 24/4/12 – comment:**

Full details of the proposed surface water soakaways should be submitted for approval, together with details of the existing septic tank system to ensure that it is in good working order and has capacity for additional usage.

**4.1.2 8/5/12 – comment:**

Percolation tests and design calculations for the drainage field soakaways associated with the new septic tank now proposed should be submitted.

**4.1.3 1/6/12 – no objection:**

The septic tank calculation test and design is now acceptable.

**4.2 Shropshire Council Rights of Way Officer:**

**4.2.1 24/4/12 – comment:**

Bridleway 15 Wistanstow runs along the access track before turning west across the site of one of the proposed car parks but there does not appear to be any provision for this. A legal diversion may be advisable. Footpath UN1 runs east along the southern side of the house, and according to the plans submitted would be enclosed between 1.8-metre high fencing. The Council does not normally support the fencing in of paths since it can make them feel intimidating and encourage crime.

**4.2.2 14/5/12 – no objection:**

Following discussions with applicant the Council is satisfied that the development would not obstruct the bridleway. Indeed the step in its surface, which currently causes users to divert off the definitive line, will be regraded in order to provide access to the car park, thereby making the path easier to use. The proposed gravel surface is acceptable. It is also understood that the footpath to the east would not be fenced in as shown on the plans submitted, but the height of the adjacent trees and shrubs would be reduced to improve natural lighting. This is a welcome enhancement.

4.2.3 2/7/12 – no objection:

The amended plan for the western car park indicates a space to be left to allow access along the bridleway. This is acceptable.

4.2.4 21/8/12 – no objection:

No further comments.

4.3 **Shropshire Council Public Protection (Specialist Pollution)** – no comment

4.4 **Shropshire Council Highways Development Control:**

4.4.1 8/5/12 – no objection:

The site is accessed via a lane which joins the B4370 at an existing road junction. I understand that the section alongside Mowbray Lodge is a bridleway over which there are no formal vehicular rights, but I note the Rights of Way Officer's comments on this matter. At the junction with the B4370 the additional traffic likely to be generated by the proposed scheme could be accommodated adequately, and given the site's distance off the public highway I do not envisage the parking or turning of vehicles having any highway safety implications. I would, however, recommend that the applicant gives consideration to access and turning facilities for fire appliances and refuse collection vehicles.

4.4.2 22/8/12 – no objection:

I note the amended drawing indicating the provision of additional car parking. I would reiterate that neither car park would be accessed directly from the public highway, and any inadequacies in their layout or capacity would not have any adverse impact on highway safety given the site's distance from the highway network. I would, however, comment that the access from the bridleway into the eastern staff car park appears to be very tight, and would suggest that this should be wider or have a 45-degree splay to improve manoeuvrability. Consideration may also need to be given to the ability of service vehicles to park and turn within the site.

4.5 **Shropshire Council Tree and Woodland Amenity Protection:**

4.5.1 10/5/12 – comment:

There are two mature oak trees along the northern boundary of the western part of the site, both good specimens which form an extension to the protected skyline trees to the west and are worthy of long-term retention through designation of a Tree Preservation Order (TPO). One of the proposed car parks would overlap a large portion of one of these trees' root plates and extend under its crown. However, the application offers no information on how the access would be improved and the car park surfaced, and whilst I have no objection in principle to the proposal in general I would not condone works that could damage the trees or give rise to potential safety concerns.

4.5.2 My favoured solution would be to discourage any ground disturbance in the root protection areas of the trees, which could be achieved by removing a couple of the parking bays from the north end of the flat area and excavating new bays to the south. Alternatively a no-dig solution could be used, although it is likely that their proximity to the car park could lead to unsympathetic tree management in the future. Subject to the applicant's response to these issues submission and agreement of and adherence to an arboricultural method statement and tree protection plan should be required by condition.

4.5.3 28/6/12 – no objection:

The two oaks on the northern boundary and Wellingtonia at the southern tip of the site are now protected by a TPO. However, provided that the western car park is formed as shown on the revised plan submitted (i.e. south of a fence enclosing what would in effect be a no construction zone around the trees) no further detail will be required. This should be reinforced by condition.

4.5.4 23/8/12 – comment:

With regard to the latest amended plan showing an additional car park north of the house, there are seven trees in this area as follows:

- T1 Scarlet oak – good young specimen that could be incorporated into the proposal
- T2 Cherry – moderate specimen that could be lost
- T3 Lime – good young specimen that could easily be incorporated into the proposal
- T4 Beech – reasonable specimen but could be lost if trees T1, T3 and T6 were retained
- T5 Walnut – moderate condition and value, could be lost if trees T1, T3 and T6 were retained
- T6 Oak – good young specimen that could be crown-lifted and easily incorporated into the proposal
- T7 Willow – moderate specimen that could be lost

Trees T1, T3 and T6 could be retained if the parking layout and position of the septic tank were altered to give adequate space for future growth. As compensation additional car parking bays could be formed against the lane-side boundary. A tree protection plan for retained trees would be required.

4.6 **Network Rail:**

4.6.1 11/5/12 – objection:

Following consultation with our Level Crossings Risk Control Co-ordinator we object to this proposal due to the safety implications of the likely increased usage of the pedestrian level crossing to the west.

4.6.2 1/6/12 – no objection:

Following discussions between the applicant and our Level Crossings Risk Control Co-ordinator Network Rail formally withdraws its objection.

4.6.3 28/8/12 – comment:

No objection in principle, but the following requirements should be met to protect Network Rail's land and ensure the safe operation of the railway:

- Trespass-proof fencing should be erected along Network Rail's boundary if not in place already.
- No existing Network Rail fencing or walls should be removed or damaged.
- No vegetation within Network Rail's boundary should be disturbed.
- No additional or increased surface water flows should be discharged onto Network Rail land or into Network Rail culverts or drains.
- In the interest of the railway's stability it is recommended that soakaways should not be constructed within 20 metres of Network Rail's boundary.

- The developer should contact Network Rail's Asset Protection Officer to ensure that no works which may endanger the safe operation of the railway or affect the stability of Network Rail's structures and land are carried out.
- Network Rail should be consulted on any alterations to ground levels, and no excavations should be carried out near railway embankments, retaining walls or bridges.
- The design and siting of buildings should take into account the possible effects of noise, vibration and airborne dust resulting from operation of the railway.
- Where any new roads, turning spaces or parking areas would be provided adjacent to and at or above the level of a railway suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging line-side fencing.
- Any trees/shrubs planted alongside the railway boundary should be positioned further away than their predicted mature height. Certain broad-leaved deciduous species should be avoided, and Network Rail should be consulted on any landscaping scheme.

#### 4.7 **Shropshire Council Planning Ecologist:**

##### 4.7.1 17/5/12 – objection:

The Protected Species Survey Report submitted with the application records evidence of a maternity roost of Soprano Pipistrelle bats in the roof of the house. Although inspection surveys cannot confirm the physical extent of a roost or the number of bats using it (and therefore its local, regional or national conservation value), the report does not recommend activity surveys and concludes that the roost can be adequately protected by following a method statement and that a European Protected Species Mitigation Licence from Natural England is not required.

4.7.2 I am concerned that the level of survey work carried out is significantly below the survey effort recommended by the Bat Conservation Trust's *Good Practice Guidelines*. Without activity survey data there is no evidence of the number of bats present or the location of the entrance/exit points to the roost. Neither is it possible to establish the direction from which bats approach the roost, and therefore how the proposed extension might impact upon it. Thus it cannot be concluded confidently that the works would not affect access to the roost and/or cause an offence (disturbance, alteration or destruction of the roost or part of the roost), in which case a licence from Natural England would be required and the Local Planning Authority would need to consider the 'three tests' for European Protected Species.

4.7.3 Before any planning permission is granted the following additional information should be provided:

- Bat activity surveys carried out by an experienced licensed ecologist and in line with the Bat Conservation Trust's *Good Practice Guidelines* (likely to be three activity surveys, including at least one pre-dawn re-entry survey during the optimum survey period)
- Based on the activity surveys, a discussion of whether the works proposed will require a European Protected Species Licence from Natural England
- Depending on the emergence survey data, a detailed mitigation scheme and/or precautionary method statement (it is likely that provision of bat boxes or a bat loft will be necessary)
- Architect's drawings showing any necessary mitigation (bat loft/boxes etc.)

- A detailed external lighting scheme

During the surveys the ecologist should also record any evidence of nesting wild birds or barn owls.

4.7.4 11/10/12 – comment:

Bat activity surveys carried out between June and September found evidence of maternity roosts of Common Pipistrelle (max. count 49) and Brown Long-eared (27) bats. No further evidence of Soprano Pipistrelle bats was found, although though the previous discovery of dead bats from earlier years confirms that this species had historically roosted within the building.

4.7.5 Given that the extensions would be positioned away from the areas bats were seen emerging from and re-entering the loft space the appointed ecologist is satisfied that there should be little impact on their roosts provided that works are subject to timing restrictions and a precautionary method statement. These should be secured by condition, as should an external lighting plan. A European Protected Species Mitigation Licence is not required.

4.7.6 With regard to slow worms, the site has only a very small area of potential habitat and so a full survey is not considered necessary. Instead the appointed ecologist recommends that the site is cut short in stages and then maintained in a short mown state until development is ready to commence. A detailed method statement should be secured by condition.

4.7.7 The site does have potential for nesting wild birds and so an informative should be included in this regard.

4.8 **Wistanstow Parish Council** – objection:

- Increased traffic flow along an unsuitable access
- Concern over safety of the centre's users given its proximity to a busy railway line

4.9 **Shropshire Council Historic Environment (Archaeology)** – comment:

The site is adjacent to the presumed route of the Roman road from Ashton (Herefordshire) to Marshbrook (PRN 02613), and within 150 metres of a well-preserved section of road which is a Scheduled Monument. It therefore has some archaeological potential, and since any evidence is likely to be affected by ground work associated with proposed extension an archaeological watching brief should be a condition of any planning permission granted.

4.10 **Severn Trent Water** – no objection

**PUBLIC COMMENTS**

4.11 Ten members of the general public from eight separate households object on the following grounds:

- Isolated rural location with poor access to shops and facilities is unsustainable and would not serve clients well
- Site unsafe for young and quite possibly unruly children (or indeed irresponsible adults) given its location between a busy railway line with pedestrian crossing and a narrow road immediately outside the entrance doors

- No risk assessment included, despite this being a legal requirement for safeguarding children
- Proposed fencing and gates would not prevent access onto railway land, whilst locked windows and doors alongside access track may not satisfy fire regulations
- Cost of upgrading the railway crossing would fall to rail passengers and general taxpayers
- To grant permission would be a negligent act of risk creation, the insurance premiums, fines, compensation and legal fees associated with which may have to be born partly by taxpayers
- Narrow, unlit unadopted access road with cluttered access onto the B4370 and, in turn, the A49 trunk road unsuitable for additional traffic likely to be generated (which is grossly understated in application)
- In connection with previous developments nearby the Council has prevented access from the lane
- Original plans would have provided inadequate on-site parking; parking on adjacent access track which could obstruct passage by neighbouring residents, agricultural vehicles, the emergency services and refuse collection vehicles
- Amended plans showing additional parking provision merely confirm that traffic generated would be far greater than that associated with a normal residential use
- Still no evidence that the number of parking spaces proposed would be sufficient
- Inadequate visibility along track/bridleway from entrance to northern car park
- Inadequate turning space within site, particularly for delivery/service vehicles
- Increased traffic along unadopted road would increase maintenance costs
- Notwithstanding the comments of Shropshire Council's Rights of Way Officer, it is illegal to drive along or obstruct a bridleway
- How will access along public rights of way be maintained during construction stage?
- Amended plans continue to show fencing along footpath to south
- Staff shift system would generate traffic noise at night
- Jobs created may be at the expense of other jobs elsewhere
- Business may become unviable given the remote location
- Business would yield private profit from services provided at considerable expense to the taxpayer
- Small bedrooms, communal kitchens, sitting and dining rooms and dark narrow corridors unsuited to proposed use
- Additional car park now proposed would leave inadequate outdoor amenity space for residents
- Formation of entrance to additional car park may involve felling of trees, although these are not shown on the plans
- Disabled access and fire regulations insufficiently addressed
- Cost of heating old, poorly insulated house for use as a care facility would be greater than if it were to be used as a private dwelling
- Increased strain on water and electricity supplies
- Additional surface water run-off should not drain onto railway land or onto the bridleway, which already floods.
- In order achieve 20 metre clearance of railway land and avoid the need for water to be pumped to higher land both surface and foul water soakaways would need to be installed in the same place (i.e. on land northwest of the house), which could increase the risk of waterlogging

- No evidence that level of water table has been ascertained, despite this being a Building Regulations requirement
- 9000 litre septic tank has capacity for 31-38 people but soakaway sizing is based on just 28 people
- Flow rate used in percolation calculations too low
- Slow worms, another protected species, present on site
- Site may not be securable against unwanted visitors since it is bounded by unlit public rights of way
- Inadequate publicity of application
- Lack of engagement with local community
- Some discrepancies in references to the age of children likely to use the facility

## **5.0 THE MAIN ISSUES**

- Principle of development
- Highway/railway safety and public rights of way
- Design
- Landscape and trees
- Residential amenity
- Ecology
- Drainage
- Other matters raised in representations

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 The National Planning Policy Framework strongly supports the “sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings”. Similarly Core Strategy Policy CS5 supports the conversion of suitably located buildings for small-scale economic or employment-generating uses which would maintain and enhance the viability and character of the countryside and improve the sustainability of rural communities by bringing economic or social benefits.
- 6.1.2 In this instance the proposal is a residential centre for the assessment, supervision and practical one-to-one support of parents with babies or young children in cases where outside agencies have concerns for the children’s wellbeing. Referrals, if found to be suitable, would be offered a three month placement during which they would develop life skills such as budgeting, cooking, housekeeping and general childcare. The intention is to avoid unnecessary placements of children into the care system.
- 6.1.3 The scheme therefore amounts to a quasi-residential use of what is an already large but vacant dwelling house, and one which is surrounded by a mix of other uses (including industrial units to the immediate north) on the edge of a settlement close to the primary road network. The market town of Church Stretton is also nearby and accessible by a regular bus service. It is suggested that this location strikes an appropriate balance between being reasonably accessible and yet secluded enough to offer the families involved some respite in a tranquil environment not surrounded immediately by other residential properties. Further, it would provide a source of local employment and a facility of potential use to the local community, as well as Shropshire residents more generally. Thus, subject to a condition precluding other potentially less appropriate uses within Class C2, the development is considered to be acceptable in principle.

6.1.4 Matters of funding and financial viability are chiefly the applicant's concern, being outside the Local Planning Authority's remit since the scheme does not involve new build in the open countryside or otherwise represent a departure from adopted planning policies concerning the location of economic development. Whilst it is acknowledged that the business may have some impact on employment elsewhere by reducing the number of children being placed in care or the number of cases referred to other assessment centres, given the small scale of the operation this would not be of strategic importance.

**6.2 Highway/railway safety and public rights of way**

6.2.1 The site would continue to be accessed along the existing lane leading south off the B4370. Part of this is also the route of a bridleway, and generally the driving of motor vehicles along a bridleway is an offence under the Road Traffic Act 1988. That said there are some exceptions, and in this case the lane deviates from the bridleway to serve several further dwellings whose occupants presumably also have an established right of vehicular access. Ultimately the burden of proof lies with the individual using the bridleway, and since the matter is governed by separate legislation outside the planning system it is not a legitimate reason to withhold consent.

6.2.2 Although the protection of public rights of way is a material consideration, in this case the development itself would not obstruct the bridleway and the Rights of Way Officer is satisfied that the resurfacing works associated with the formation of the car park would in fact be an enhancement. Should it prove necessary to block or reroute any public right of way at any time during the course of building works a temporary closure or diversion order would need to be sought. Meanwhile any temporary obstruction of another's private right of access would be a civil matter, as would liability for its maintenance.

6.2.3 It is understood that the length of footpath between the lane and the railway line would not in fact be fenced in as shown on the site plan submitted. That said, submission of a further revised plan would be of little consequence since these works could in any case be carried out under 'permitted development' rights.

6.2.4 The issue of rights of way aside, several of the objectors consider traffic generation to be problematic and cite a planning permission for one of the industrial units to the north, a condition of which restricts vehicular access to the northern end of that site in order to avoid increasing traffic along the "narrow unmade road" which continues past Mowbray Lodge. However, more recent consents for further industrial development here, including an appeal allowed by the Planning Inspectorate in 1990, include no such restriction and highway safety was not identified as a concern. A further appeal was dismissed in 1999, but again increased commercial use of the lane beyond the site entrance was not cited by the Inspector as a reason for refusing consent. It also seems unlikely that the proposed residential centre would be visited by large vehicles with such frequency as might industrial units, whilst the applicant has confirmed that staff changeovers and public visiting hours would be scheduled so as to avoid peak times. Furthermore, access onto the B4370 and thence to the A49 is considered by the Council's Senior Highways Development Control Officer to be adequate in terms of width, alignment and visibility to accommodate the additional traffic likely to be generated.

- 6.2.5 With regard to on-site parking provision, this has been increased considerably through the inclusion on an amended plan of a further car park north of the house, on the western side of the lane. In actual fact the number of cars on site at any one time may well be lower since staff would work a 48-hour shift system and not all residents would necessarily arrive by or have use of a car. For this reason, and in the absence of any adopted parking standards within the Core Strategy, inadequate parking provision would not be sustainable as a reason for refusing planning permission.
- 6.2.6 Since the entrance to the western car park would be off an unadopted lane there are no formal planning requirements in relation to layout and visibility. However, it is obviously in the applicant's own interests to provide an entrance which is usable and as safe as possible, and should it prove necessary to remove a longer stretch of the existing boundary wall this could be done without formal approval.
- 6.2.7 Regarding the nearby pedestrian crossing over the railway line, as noted above Network Rail has withdrawn its initial objection following clarification from the applicant on the nature of the centre and its occupants. Significantly it would not be a children's home or centre for people with behavioural problems, but an assessment centre where family groups residing together would receive one-to-one support. Supervision and general health and safety matters (including risk assessments) would be the responsibility of the centre's staff and subject to separate legislation which need not, and indeed should not, be duplicated by the planning system. Meanwhile most of Network Rail's recommendations and requirements relate to protection of its own land or assets, damage to which would be a civil matter.

### 6.3 **Design**

- 6.3.1 The relevant Core Strategy Policies require extensions to be sympathetic to the scale, mass, character and appearance of the original dwelling and to the local context. In this instance the main two-storey extension would simply elongate the rear range so that its southern end would align with that in front, with roofline, external materials and detailing to match. The increase in floor space relative to that existing is also considered reasonable.
- 6.3.2 Disabled access and fire safety would be addressed at the Building Regulations stage, and should minor external revisions prove necessary these could potentially be treated as 'non-material' amendments for planning purposes. Whilst the property may not be as thermally efficient as new-build, conversion schemes usually have a lesser environmental impact overall and the extensions and other physical alterations would also need to comply with the relevant Building Regulations in this regard. The quality of the internal accommodation is again outside the remit of the planning system but presumably would need to satisfy the relevant authorities charged with inspecting such facilities.
- 6.3.3 The addition of a pitched roof would improve the appearance of the garage block, although given the sensitive location the use of natural slate rather than fibre cement tiles is required by condition.

**6.4 Landscape and trees**

- 6.4.1 The physical works to this existing property situated close to other buildings would not in themselves have any significant impact on the generally open character or natural beauty of the wider landscape, particularly given that the site is relatively low-lying and well screened by tree cover.
- 6.4.2 As noted above three significant trees around the perimeter of the site are now protected by a TPO, and the western car park has been reconfigured so as to accommodate a fenced 'tree protection zone' within the root area of the closest of the two oaks. Condition x prohibits certain activities within this zone.
- 6.4.3 Following the latest proposals for a further car park to the north of the house the Council's Tree and Woodland Amenity Protection Officer has appraised the trees on this part of the site and his recommendations are again summarised above. Whilst three of these trees in particular are good specimens they are not of such high public amenity value that they merit a further TPO, and neither is their retention essential in order to screen the development. Therefore, bearing in mind the requirement for any planning condition to be reasonable, necessary and relevant to the development proposed, it would not be appropriate to use the planning system as a mechanism for insisting upon the trees' retention.

**6.5 Residential amenity**

- 6.5.1 Given the property's distance from other dwellings neither the new use nor the extensions would cause any demonstrable harm to nearby residents in terms of loss of privacy, light or outlook. Whilst some increase in vehicular movements and general activity in the vicinity of the site may be perceptible this is unlikely to amount to anything like a statutory nuisance, particularly given the noise generated already by the nearby trunk road, railway line and industrial units. The applicant has also confirmed that staff changeovers would not occur during unsociable hours.
- 6.5.2 Regarding the issue of outdoor amenity space for the centre's own residents, this remains considerable despite the inclusion on the latest amended plan of an additional car park on part of the garden to the north. Further, the location affords easy access to the Shropshire Hills and other outdoor attractions.

**6.6 Ecology**

- 6.6.1 As explained above a licensed ecologist has now completed a series of bat activity surveys, and advises that the two maternity roosts discovered are unlikely to be affected provided that the development is completed outside the period when bats are most likely to be active, and that a precautionary method statement is agreed and adhered to. As suggested by the Council's own Planning Ecologist conditions are attached to ensure that these recommendations are followed, and also to control external lighting.
- 6.6.2 In light of neighbours' concerns the appointed ecologist has also carried out a preliminary assessment of the site's suitability for slow worms, but since only a very small area of potential habitat was found a full survey is not considered necessary. Nevertheless certain measures to avoid harming reptiles are proposed, and again the Council's Planning Ecologist is satisfied with this approach provided that a detailed method statement (as is secured by Condition x) is followed.

## 6.7 **Drainage**

- 6.7.1 The application has been amended to include the replacement of the existing septic tank with a new, larger unit, and the percolation test results for the associated drainage field are considered satisfactory by the Council's Flood and Water Management Team. This is challenged by a local resident, who argues that there is a mismatch between the size of the septic tank and that of the drainage field (which are designed for 31-39 and 28 people respectively), and that the flow rate is likely to be higher than that used in the soakaway calculations (and in fact more akin to that applicable to a nursing home). However, the Council's Drainage Engineer argues that the activities of the proposed parent/child assessment centre would more closely reflect domestic living than the characteristics of a nursing home where large quantities of soiled bedding and clothes might need to be washed on a daily basis. That the septic tank has been over-specified is also not considered problematic, since ultimately the associated drainage field will have to conform to the Building Regulations and in the event of a pollution issue action could be taken under environmental health legislation.
- 6.7.2 Regarding surface water drainage, the roof area of the extensions is relatively small and the car parks would be surfaced in a porous material. The site is outside the medium and high risk flood zones, and full details of the proposed soakaways would be required at the Building Regulations stage.
- 6.7.3 As noted above Network Rail advises that all soakaways should be located at least 20 metres from any boundary with railway land, and this recommendation can be included as an informative. It is, however, not a statutory requirement, and as explained above any damage to adjoining property would be a civil matter.

## 6.8 **Other matters raised in representations**

- 6.8.1 The Historic Environment Team's recommendations in respect of archaeology are addressed by Condition 3.
- 6.8.2 The adequacy of mains water and electricity supplies are a matter for the utility providers concerned. It is noted that Severn Trent Water has no objection.
- 6.8.3 The ability to secure the site against unwanted visitors is a matter for the site's owners/management, or ultimately for the police.
- 6.8.4 Finally, the application has been publicised in accordance with both the national requirements as set out in the Development Management Procedure Order 2010 and the Council's own policy. The latter is to notify by letter only those neighbours who share a contiguous boundary with the application site, although a site notice has also been displayed. There is no legal requirement for the applicant to engage in their own community consultation.

## 7.0 **CONCLUSION**

- 7.1 The development is acceptable in principle since it involves small-scale economic development through the reuse of an existing rural building which, in planning terms, is suitably located. The proposed extensions are judged to be in scale and character with the existing property and its surroundings, and the scheme would cause no significant harm to the visual or residential amenities of the area or to the arboricultural or ecological value of the site. Furthermore, the proposals for foul and

surface water drainage are considered satisfactory. Account has been taken of the other issues raised in public representations, but many of these fall outside the remit of the planning system. On balance, therefore, the application accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects of the scheme.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

8.1 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, i.e. written representations, hearing or inquiry.
- The decision may be 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 made 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.

## **9.0 HUMAN RIGHTS**

9.1 Article 8 of the First Protocol of the European Convention of Human Rights gives the right to respect for private and family life, whilst 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.

9.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

## **10.0 EQUALITIES**

10.1 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.

## **11.0 FINANCIAL IMPLICATIONS**

11.1 There are likely financial implications of the decision and/or imposition of conditions if 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. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 12.0 BACKGROUND

### **Relevant planning policies**

National Planning Policy Framework:

Part 3: Supporting a prosperous rural economy

Part 4: Promoting sustainable transport

Part 7: Requiring good design

Part 8: Promoting healthy communities

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Local Development Framework:

Core Strategy Policies:

CS1: Strategic Approach

CS5: Countryside and Green Belt

CS6: Sustainable Design and Development Principles

CS7: Communications and Transport

CS8: Facilities, Services and Infrastructure Provision

CS11: Type and Affordability of Housing

CS13: Economic Development, Enterprise and Employment

CS17: Environmental Networks

CS18: Sustainable Water Management

Supplementary Planning Documents:

Type and Affordability of Housing

### **Relevant planning history**

SS/1975/229/P/ – Partial rebuilding of ground floor and erection of first floor extension (permitted July 1975)

## 13.0 ADDITIONAL INFORMATION

[View details online:](#)

<http://planningpa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=M1CENVTD07V00>

<b>List of Background Papers</b> Application documents available to view on Council website
<b>Cabinet Member (Portfolio Holder)</b> Cllr M. Price
<b>Local Members</b> Cllr. Lee Chapman Cllr David Evans
<b>Appendices</b> 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 in strict accordance with the approved amended plans and drawings listed below unless any minor amendments are first agreed in writing by the Local Planning Authority.

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 DEVELOPMENT COMMENCES**

3. No development shall commence until a detailed method statement in respect of bats has been submitted to and approved in writing by the Local Planning Authority. This statement shall include a consideration of issues such as working practices, timing, pre-commencement inspection by a licensed ecologist, sensitive works requiring ecological supervision, works to the existing roof and within the existing loft spaces, and action to be taken in the event of a bat being discovered on the site. The agreed works/measures shall be implemented/followed in full during the course of construction works and any mitigation measures shall be maintained thereafter in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure the protection of and enhance roosting opportunities for bats, which are European Protected Species, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

4. No development shall commence until a detailed method statement in respect of reptiles has been submitted to and approved in writing by the Local Planning Authority. This statement shall include a consideration of issues such as site clearance and preparation, storage of materials and equipment, working practices and action to be taken in the event of a reptile being discovered on the site. The agreed works/measures shall be implemented/followed in full during the course of construction works and any mitigation measures shall be maintained thereafter in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure the protection of wildlife in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. No development shall commence until the applicant/owner/developer has notified Shropshire Council's Historic Environment Team in writing not less than three weeks prior to the commencement of ground works. The applicant/owner/developer shall thereafter provide a representative of that team with reasonable access onto the site during the course of building operations in order that he/she may monitor the ground works and record any archaeological evidence as appropriate.

Reason: To ensure that any evidence associated with known archaeological sites nearby is recorded and/or preserved satisfactorily, in accordance with Policy QE5 of the West Midlands Regional Spatial Strategy and Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

6. No works associated with the development hereby permitted (including site clearance work and the bringing onto the site of equipment, machinery, plant or materials) shall commence until fencing has been erected along the northwest edge of the westernmost car park in accordance with the approved site/block plan (ref. No. CS07/2011/01 Rev. B). The land northwest of this fence shall thereafter be treated as a 'tree protection zone', and unless first agreed otherwise in writing by the Local Planning Authority the following restrictions shall be observed at all times within that area:
  - No fires shall be lit
  - No equipment, signage, fencing, tree protection barriers, materials, components, structures or vehicles shall be stored, erected or parked
  - No mixing of cement or use of other materials or substances shall take place, or be allowed to seep into or become displaced onto the root protection areas of any protected tree
  - Ground levels shall not be altered
  - No excavation shall be made

Reason: To ensure the long-term health and safety of protected trees in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

## **CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

7. Unless first agreed otherwise by the Local Planning Authority in writing, the external materials of the development hereby permitted shall match in colour, form and texture those of the existing dwelling on the site.

Reason: To ensure that the development harmonises with the existing building and reflects the vernacular tradition, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

8. In pursuance of Condition 7 above the replacement roof over the detached store/garage/play room/meeting room) shall, notwithstanding the content of submitted drawing No. CS07/2011/13, be finished externally with natural slates which match in colour, form and texture those of the existing dwelling on the site, unless the use of an alternative material/finish is first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development harmonises with the existing building and reflects the vernacular tradition, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

9. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1990, Town and Country Planning (General Permitted Development) Order 1995 (or any Order modifying, revoking or re-enacting those Orders), the development hereby

permitted shall only be used for the purpose specified above and at no time shall the buildings be used for any other purposes whatsoever.

Reason: To safeguard the residential amenities of the area and prevent the use of the building for other purposes which would be inappropriate in the open countryside, in accordance with Policies CS1, CS5 and CS6 of the Shropshire Local Development Framework Adopted Core Strategy.

10. No new external lighting shall be erected/provided on the site without the Local Planning Authority's prior written approval of a lighting plan designed to take into account the advice set out in the Bat Conservation Trust document 'Bats and Lighting in the UK'. Any lighting erected thereafter shall accord with the approved details in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To minimise disturbance to bats, which are European Protected Species, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

## **INFORMATIVES**

1. Your attention is drawn specifically to those conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 21 of the Town and Country Planning (Development Management Procedure) Order 2010 a fee is payable to the Local Planning Authority for each request to discharge pre-start conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Failure to discharge these 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.

2. In pursuance of Condition 5 above please contact The Council's Environmental Records Officer, Mick Krupa (tel. 01743 252 532 or email [mick.krupa@shropshire.gov.uk](mailto:mick.krupa@shropshire.gov.uk)).
3. 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.
4. This consent does not convey any right of vehicular access over any bridleway or unadopted road. Any person intending to use a bridleway or private road in this way should first satisfy themselves that such a right exists, if necessary by taking legal advice.
5. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any public right of way. Before carrying out any such operation you should consult Shropshire Council's Countryside Access and Public Rights of Way team and obtain any closure order or further consents which may be required.

6. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any private drive or way. Before carrying out any such operation you should first satisfy yourself that you have the necessary consent from the landowner and any other affected party.
7. Although the northernmost car park would not be accessed directly off the public highway, the Council's Highways Development Control Officer comments that the proposed entrance appears very tight, and suggests that it should be wider or given a 45-degree splay so as to provide adequate space for vehicles to manoeuvre and improve visibility. It is also recommended that consideration is given to access and turning provision for service and emergency vehicles.
8. Network Rail advises that the following requirements should be met in order to protect its adjoining land and ensure the safe operation of the railway:
  - Trespass-proof fencing should be erected along Network Rail's boundary if not in place already.
  - No existing Network Rail fencing or walls should be removed or damaged.
  - No vegetation within Network Rail's boundary should be disturbed.
  - No additional or increased surface water flows should be discharged onto Network Rail land or into Network Rail culverts or drains.
  - In the interest of the railway's stability it is recommended that soakaways should not be constructed within 20 metres of Network Rail's boundary.
  - The developer should contact Network Rail's Asset Protection Officer to ensure that no works which may endanger the safe operation of the railway or affect the stability of Network Rail's structures and land are carried out.
  - Network Rail should be consulted on any alterations to ground levels, and no excavations should be carried out near railway embankments, retaining walls or bridges.
  - The design and siting of buildings should take into account the possible effects of noise, vibration and airborne dust resulting from operation of the railway.
  - Where any new roads, turning spaces or parking areas would be provided adjacent to and at or above the level of a railway suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging line-side fencing.
  - Any trees/shrubs planted alongside the railway boundary should be positioned further away than their predicted mature height. Certain broad-leaved deciduous species should be avoided, and Network Rail should be consulted on any landscaping scheme.

For further information please contact Network Rail's Asset Protection team.

9. In order to control/attenuate surface water run-off at source you are encouraged to incorporate into the development Sustainable Drainage Systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling.
10. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.

11. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.