

Date: Tuesday, 20 January 2015

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Contact: Emily Marshall, Committee Officer
Tel: 01743 252726
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NORTH PLANNING COMMITTEE

TO FOLLOW REPORT (S)

5 Proposed Residential Development Land East of Teal Drive, Ellesmere, Shropshire (14/03370/FUL) (Pages 1 - 16)

Erection of 68 dwellings to include on-site open space provision. (Report to Follow).

9 Land At Brookmill, Hampton Wood, Ellesmere (14/02078/FUL) (Pages 17 - 40)

Construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use. (Report to Follow).

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Committee and Date
 North Planning Committee
 20 January 2015

Item
5
 Public

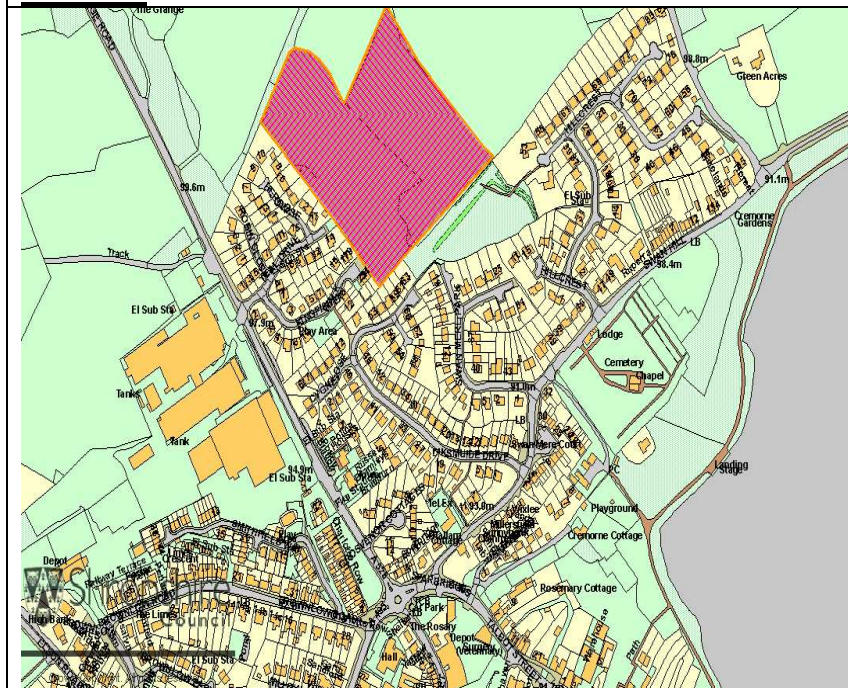
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/03370/FUL	Parish: Ellesmere Urban
Proposal: Erection of 68 dwellings to include on-site open space provision	
Site Address: Proposed Residential Development Land East Of Teal Drive Ellesmere Shropshire	
Applicant: David Wilson Homes (Mercia)	
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk

Grid Ref: 339950 - 335375



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Recommendation:- That delegated powers be granted to the Planning Manager to grant planning permission subject to resolution of the ecology issues ; subject to the

conditions listed at appendix 1 and subject to the applicants entering into a S106 agreement to secure the provision of affordable housing**REPORT****1.0 THE PROPOSAL**

1.1 This report is an addendum to the report presented to members in December 2014 which detailed the proposal for full planning permission for residential development of 68 dwellings on a 3.37 hectare site on the northern side of Ellesmere. The application site would form an extension to the existing modern housing estate which consists of Teal Drive and a series of three other cul-de-sacs. The application also includes the provision of an area of public open space.

1.2 The following report seeks to advise members on their resolution that Committee were minded to refuse the application. The minutes of the meeting record that members raised the following concerns:

- The cumulative impact the development would have on the Town and gave greater weight to the emerging SAMDev Policies and saved local plan policies which classified the site as being within open countryside.
- Impact the development would have on the highway network.

2.0 Matters for Consideration

- Cumulative impact
- Impact on highways network

2.1 Cumulative Impact

2.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

2.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material

consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

- 2.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev. Currently there are significant unresolved objections to the allocation of future development within the market town of Ellesmere.
- 2.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 2.1.5 It was brought to member's attention during the meeting that Ellesmere is not against new housing development and in fact has embraced housing and late representations recognise the vibrancy and economic value of such development. It was reported that Ellesmere has a number of applications for in the town. It was further reported in the late representations that that all new development must be sited in the right place for the future of the town, must not be in the town centre as the roads are not suitable for any more traffic pressure.
- 2.1.6 Whilst members attention was drawn to other proposal the Core Strategy envisages Ellesmere taking 500-1000 dwellings and the growth guideline for Ellesmere in SAMDev is 800 gross (2006-2026), with 488 completions and commitments, this leaves a net target of 312, of which the Plan allocates 250 as part of the large mixed use of the Wharf currently being determined under planning reference 14/04047/OUT.
- 2.1.7 In addition to the allocated site there have been a number of recent applications which, if delivered in practice, would amount to approximately a further 200 dwellings:
- Elson Road (14/00822/OUT) for up to 130 dwellings (committee resolution to grant);
 - The Old Station Yard (14/01744/OUT) for up to 57 units (delegated

approval);

- Cremorne Gardens (14/03934/FUL) for 10 dwellings (pending decision);

2.1.8 During the Examination of the SAMdev the council has clarified that the housing guideline for each settlement should not be viewed as a ceiling and MD3 (as amended in draft during the Examination) recognises that planning permission will also be granted for other 'sustainable' housing development having regard to the policies of the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a, but indicates that, where development would result in the number of completions plus outstanding permissions providing more dwellings than the guideline, decisions will have regard to:

- i. The increase in number of dwellings relative to the guideline; and
- ii. The likelihood of delivery of the outstanding permissions; and
- iii. The benefits arising from the development; and
- iv. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and
- v. The presumption in favour of sustainable development.

The amended policy has yet to be agreed by the Inspector and MD policies can only be give limited weight in any decision, alongside the presumption in favour and any relevant policies in the current Development Plan, however the key principles of the SAMdev and MD Policies could be of help to members in reaching a recommendation.

2.1.9 With regard to points (i) to (v) above the following advice is presented to members

i)The increase in number of dwellings relative to the guideline;

It is acknowledged that the proposed development is a significant number of dwellings however Ellesmere is a significant settlement and one that is expected to accommodate a significant number of dwellings over the plan period, as noted above, along with the other Shropshire Market Towns. It is considered by Officers that whilst the proposed development is large and will more than double the number of dwellings on the existing estate, the proposal is one that is not considered to be so excessively large to overwhelm the market town of Ellesmere or significantly impact upon the existing local community. The guideline for Ellesmere in SAMdev is 800 dwellings over the plan period with a guide in the core strategy for 500-1000. As already noted the guide is not to be treated as a ceiling maximum. The current proposal for 68 dwellings taking into account the recent applications, if all approved additional approved could increase housing deliver by up to 203 dwellings above the SAMdev guideline however the core strategy target would be exceeded by three dwellings. It is considered that the increase in dwellings, under the current proposal, relative to the guidelines would not amount to a significant and disproportionate increase.

2.1.10 ii) The likelihood of delivery of the outstanding permissions
Planning permissions submitted to date mostly comprise outline planning permissions and will still require the further submission and approval of reserved matters. it is acknowledged that the majority of new housing will arise when the

‘Wharf’ mixed use scheme of a hotel, boating marina, leisure complex, pub/restaurant, residential, holiday cabins and touring caravans with associated infrastructure materialises however at the current time the application has only been submitted in outline form seeking the approval of access. At the current time the only full planning permission submitted to date is that of Cremore Gardens for 10 dwellings which is still pending determination. The Wharf scheme, whilst considered the preferred option, will be a significant scheme to deliver and the delivery of the scheme is one that will reasonably be delivered over a long period of time. All other applications that are referred to above are still pending consideration or currently still subject to s106 completions and no decision notices have been issued.

2.1.11 Members attention is drawn to a significant fact that this application is a full application, as opposed to the outline consents listed above. Full planning applications usually have to be commenced within three years of the decision notice being released. The application submitted is a fully drawn up scheme and submitted not by a land owner but a developer, David Wilson homes. David Wilson homes have highlighted to the council that they will accept a twelve month period to commence work on site. Therefore the council can have greater confidence that it will be delivered in practice and delivery of dwellings remains an important consideration in the context of the councils 5 year housing land supply statement.

2.1.12 iii) The benefits arising from the development;

The benefits arising from the scheme have already been identified within the report presented to members on the 16th December 2014.

2.1.13 iv) The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and

As already noted within the report the preferred option to deliver housing within Ellesmere under SAMdev is by means of the wharf development. There remains outline and full applications for residential development still pending decision notices / determination. Any argument around the cumulative impact of proposed development would exert greater pressure in the context of a much larger proposal which would demonstrably place a significant additional burden on local facilities, services and infrastructure when considered alongside the planned level of development at a point where this had been substantially delivered (i.e. later in the Plan period). The number of dwellings proposed within the current application is not at a level that is considered to be significantly large to exert a greater pressure / additional burden on local facilities, service and infrastructure when considered alongside the planned level development.

2.1.13 v) The presumption in favour of sustainable development.

The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to ‘boost significantly the supply of housing’ therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material

consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

- 2.1.14 Matters relating to housing land supply is noted in 2.1.3 and 2.1.4 above. However currently there are significant unresolved objections to the allocation of future development within the market town of Ellesmere and therefore only limited weight can be afforded to such documents. (NB This largely repeats what is said above and you may want to amend/cross reference etc above 2.1.3 and 2.1.4)
- 2.1.15 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF.
- 2.1.16

In the stage assessment of the emerging Samdev document it is acknowledged that the site was previously identified as a preferred option for development and therefore officers could not reasonably consider that the scheme as submitted now represents unsustainable development. The stage 2b assessment of the application site by Shropshire Council s Planning Policy team noted that the site is well contained on the northern edge of town adjacent to recent residential development. The Stage 2a assessment (sustainability appraisal) scores the site positively for access to public transport, access to a local park, or garden, amenity green space, a children’s play area and for flood risk. It scores negatively for access to a primary school, a young people’s recreation facility, for being within the buffer zone of Ellesmere Conservation Area. The agricultural land quality is grade 3 - All sites in Ellesmere are grade 3. There are no known air quality issues. The site scored well in terms of relationship to services and facilities and the primary school is still reasonably accessible. Development in this location would be well contained and easily assimilated into the existing built form in this part of the town. The promoted site at the site time contained phase one and phase two – the councils policy team preferred allocation was to be limited to ‘phase 1’ of the site which is the site comprising the application before members. The previous report presented to members on the 16th December fully detailed how the proposal impacted on the strands of sustainability referred to in paragraph 7 of the NPPF, namely economic, social and environmental factors.

2.1.17

There is a distinction between what SC Planning Policy would choose to allocate in SAMDev as planned development in the context of the availability of reasonable alternatives and how the Council respond to an application for planning consent where the proposed development must be considered on its own merits in

2.1.18 circumstances where local policies have negligible weight.

It is accepted that new housing will add pressure onto existing facilities and services such as the schools, however as advised within the December report the provision of improvements to, for example, schools would need be funded through the CIL income. Pressure on other infrastructure can be considered as a detrimental impact. Though it is officers advice that in the case of the application site cumulative impact the development would have on the town would not be significant and that greater weight cannot be placed on the emerging SAMDev Policies owing to substantial unresolved objections and only limited weight can be

2.2 given to saved local plan policies as these policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. It is advised that a refusal on these grounds would be weak and one which would put the Council at risk at appeal.

2.2.1 Highways

2.2.1

2.2.2 Members were also minded to refuse the application based on the impact the development would have on the highway network.

2.2.3 Following the meeting the applicant appointed a Transport Consultant and the submitted report follows the concerns raised by the Members in relation to the cumulative impact of development taking place in Ellesmere, which has either been granted consent or subject to current applications.

2.2.4 In order to fully assess address the Members concerns with regard to the cumulative impact of traffic in Ellesmere as a result of permitted or pending housing applications, it would be necessary to carry out a Traffic Model exercise for Ellesmere. Such a project however would be costly to produce and nor would it be reasonable for such a requirement be placed upon the applicant in this particular case.

2.2.5 In assessing the number of housing applications which have come forward in Ellesmere, whilst the highway authority recognise that there will be a resultant impact upon traffic volume increases on the local highway network into and out of the town, it is necessary to put this application, as with others, in context. This application seeks permission for 68 dwellings served off an existing housing estate, known as Teal Drive, which is considered acceptable in terms of layout and highway safety respects. The Technical Note produced by Mode Transport Planning puts the development into further context in the manner in which traffic would be likely to be distributed on the local highway network as a result of the 68 additional dwellings and junction capacity analysis.

2.2.5

2.2.6 In summary the note reported that 19% of proposed development traffic is forecast to arrive/depart from the north of the site with the remaining 81% forecast to arrive/depart from the south (i.e. via Ellesmere). The development traffic splits again at the A528 Grange Road/A495 Talbot Street/A495 Willow Street/Cross Street mini-roundabout equating to less than 20 trips per hour using the A495 Talbot Street and the A495 Willow Street through Ellesmere in either peak hour. This level of traffic equates to a vehicle every three minutes on average and is considered to represent a marginal increase to existing traffic volumes.

2.2.7 Junction capacity analysis of both the A528 Grange Road/Teal Drive/Fullwood Access crossroads junction and the A528 Grange Road/A495 Talbot Street/A495 Willow Street/Cross Street mini-roundabout was also carried out. The analysis considered future traffic conditions by growing surveyed traffic to 2019 levels. The analysis indicates that with no alterations to the existing junction arrangements the localised highway network will continue to operate at an acceptable level and development traffic will have a marginal impact on junction performance.

The Technical Note concludes that the impact upon the existing highway network would not amount to significant / severe harm and the impact of the development is considered to be acceptable and will not have a significant impact upon existing junction arrangements. The council's highway officer does not object to this conclusion

2.2.8

The Technical Note also draws attention to the NPPF where it states that "Development should only be prevented or refused on highway grounds where the residual cumulative impacts of development are severe.". The highway authority advise that such an argument could not be substantiated in respect of the current application under consideration and furthermore the Council would be at risk of costs being awarded against it should members be minded to refuse this application on the grounds of cumulative traffic impact.

3.0 CONCLUSION

3.1

Officers have sought to advise members within this report of the issues raised at the December meeting. Research has been undertaken to provide members with evidence on the issues raised however no evidence has been found which would substantiate a defensible reason for refusal of the application. As such, the officer's recommendation remains the same as that presented at the December meeting, which is that, subject to the applicants entering into a S106 legal agreement to secure affordable housing, and subject to conditions, delegated authority should be given to the Planning Services Manager to grant planning permission.

3.2

The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to CS5 and saved North Shropshire Local Plan Policy H5. However there are other material considerations that should be given weight in setting aside the adopted policy.

3.3

The site is considered to be a sustainable location on the edge of the market town of Ellesmere and policy 47 of the National Planning Policy Framework sets a presumption in favour of sustainable development. The cumulative impact the development would have on the town would not be significant and that greater weight cannot be placed on the emerging SAMDev Policies owing to substantial unresolved objections and only limited weight can be given to saved local plan policies as these policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan.

3.4

Access off the existing housing estate, known as Teal Drive, is considered acceptable in terms of layout and highway safety respects. Further technical works carried out concludes that the impact upon the existing highway network would not amount to significant / severe harm and the impact of the development is considered to be acceptable.

3.5

It is advised that a refusal on the above grounds would be weak and one which would put the Council at risk at appeal.

- 3.6 The proposal will be of significant benefit in terms of boosting the local housing supply including the provision of affordable housing in what is a sustainable location where there is good access to services in a sizeable market town. Accordingly, it is considered on balance that the benefits of the scheme is not demonstrably outweighed by the harm caused and that the proposal complies with policies CS6 and CS11 of the Core Strategy and the requirements of the National Planning Policy Framework.

4.0 Risk Assessment and Opportunities Appraisal

4.1 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, 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.

4.2 Human Rights

Article 8 gives 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.

4.3 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.

5.0 Financial Implications

There are likely financial implications if 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 dependent 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.

6.0. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS3- Market Towns and other Key Centres
CS5- Countryside and Greenbelt
CS8- Facilities, Services and Infrastructure Provision
CS9- Infrastructure Contributions
CS11- Type and Affordability of Housing
CS17- Environmental Networks
CS18- Sustainable Water Management

7.0. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Ann Hartley

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – Report to members 16th December 2014

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of 12 months 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 deposited plans and drawings as amended by the revised plans received on the 10th October 2014 and 25th November 2014, 1st December 2014. .

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of foul drainage, and surface water drainage including relevant plans, calculations and maintenance strategy has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

4. Before the commencement of development a scheme of landscaping and these works shall be submitted to the Council and approved. The submitted scheme shall include:
 - a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
 - d) Planting plans, including wildlife habitat and features (e.g. hibernacula)
 - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate native species used to be of local provenance (Shropshire or surrounding counties)
 - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
 - h) Implementation timetables

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design

5. Prior to development commencing a method statement that sets out the Risk Avoidance Measures to ensure the protection of Great Crested Newts shall be submitted to and approved

in writing by the Local Planning Authority. The works shall thereafter be carried out strictly in accordance with the approved details.

Reason: To ensure the protection of great crested newts, a European Protected Species

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- * the parking of vehicles of site operatives and visitors
- * loading and unloading of plant and materials
- * storage of plant and materials used in constructing the development
- * the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- * wheel washing facilities
- * measures to control the emission of dust and dirt during construction
- * a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

7. No development shall take place until details of the design and construction of any new roads, internal visibility splays, footways, accesses have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site

8. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement has been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with

this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

9. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and ponds other than small, privately owned, domestic gardens shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason: To ensure the long term management of the public open spaces

10. The external materials of the proposed development shall be carried out in accordance the materials schedule, drawing no. P04 received 1st December 2014.

Reason: To ensure that the external appearance of the development is satisfactory.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

11. No windows or other openings other than those shown on the approved plans shall be formed in the southwest elevations of plots 32, 13, 12 and 1 without the prior consent of the Local Planning Authority.

Reason: To preserve the amenity and privacy of adjoining properties.

12. Prior to the erection of any external lighting over 150W on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

13. The gradient of the access(s) from the highway carriageway shall not exceed 1 in 24 for a distance of 1.8 metres and thereafter the gradient of the drive shall not exceed 1 in 10.

Reason: To provide a safe access to the development in the interests of highway safety.

14. Construction works shall not take place outside 0730 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In order to maintain the amenities of the area.

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Committee and Date

North Planning Committee

20 January 2015

Item

9

Public

Development Management Report

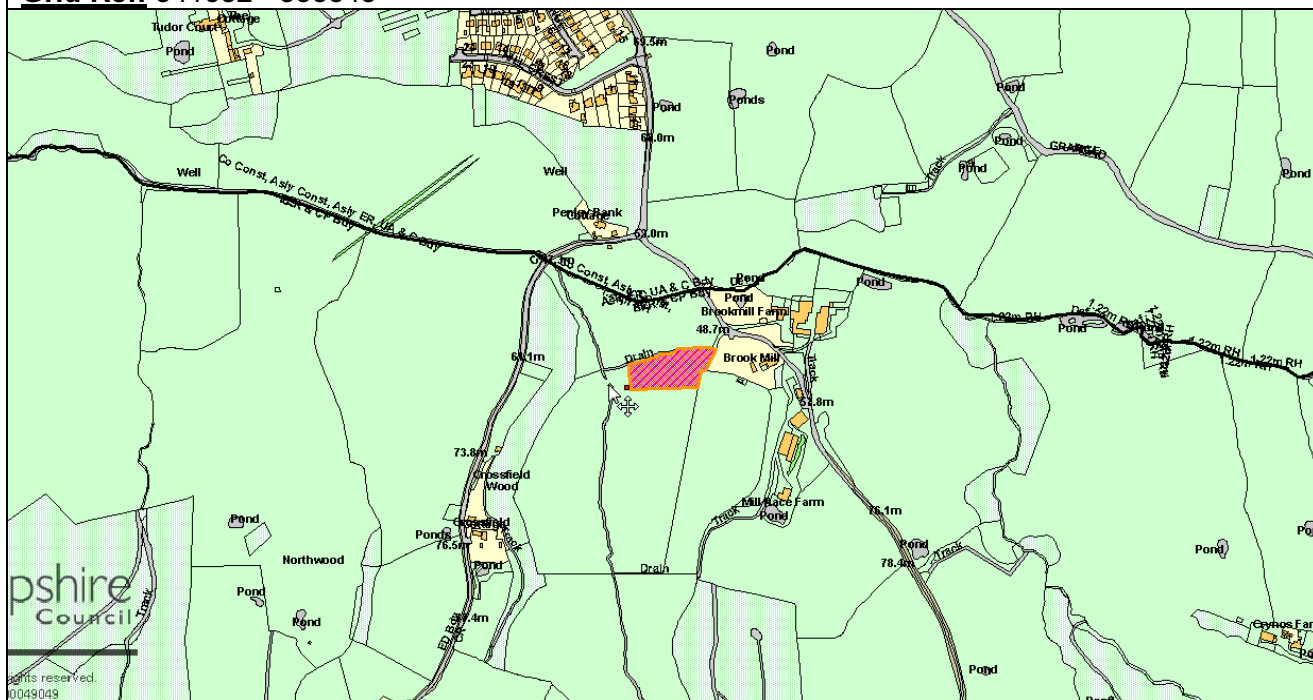
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/02078/FUL	Parish: Welshampton And Lyneal
Proposal: Construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use.	
Site Address: Land At Brookmill Hampton Wood Ellesmere Shropshire	
Applicant: Mrs M Kelsey	
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk

Grid Ref: 341632 - 338843



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Recommendation:- Grant planning permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the construction of a block of 10 stables, a ménage and temporary mobile home and change of use of agricultural land to equestrian use on land at Brookmill, Hampton Wood near the village of Penley. The proposed caravan is to be occupied by the applicant in association with equestrian activities on the site.
- 1.2 The applicant purchased 12 acres of grazing land at the site in 2013 with the objective of relocating her equestrian business to the land. The intention is to secure temporary planning consent for the mobile home for a 3 year period.
- 1.3 The current application is in part retrospective in that the site is already being used for grazing horses and a number of makeshift structures have been introduced onto the site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1. The application site is located approximately half a mile south of the village of Penley and roughly 4½ miles to the north east of Ellesmere in an area of open countryside within a steep sided valley. The site is accessed via a short track off a country lane linking Hampton Wood with Penley and forms part of a larger field also under the ownership of the applicant.
- 2.2 A stream runs in a north/ south directly within 30 metres to the west of the proposal site and dissects the larger field. Also to the west beyond that is a belt of woodland, Crossfield Wood, which also generally follows a north/ south direction.
- 2.3 The site is enclosed by a mix of post and wire fencing with some hedgerow and currently contains a number of unauthorised timber structures and containers.
- 2.4 The nearest residential property is Brook Mill which is situated to the east at a distance of approximately 60 metres from the site boundary. Mill Race Farm is located further to the south, around 180 metres away. To the north east (approximately 90 metres from the site) is Brookmill Farm which is located on the other side of the lane with its access opposite the site entrance.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected to the application contrary to the officer recommendation and the local ward member has requested that the application be referred for determination by planning committee in accordance with the Council's 'Scheme of Delegation'.

4.0 Community Representations

- 4.1 - Consultee Comments
- 4.1.1 SC Rights of Way – No objection. The proposal does not appear to affect any

public right of way.

4.1.2 SC Ecology – No objection subject to conditions and informatives relating to landscape, Great Crested Newts, nesting wild birds and bats.

4.1.3 SC Drainage –no objection following submission of additional information subject to condition relating to surface and foul water drainage.

4.2 - Public Comments

4.2.1 Local Ward Member – Object. Proposal conflicts with Policy CS5 by failing to enhance countryside vitality and character and CS18. Do not believe application includes an appropriate sustainable drainage system to manage the water which gathers and lies in this very low lying area.

4.2.2 Welshampton and Lyneal Parish Council - object to the application for the following reasons:

Drainage - the majority of the site is in is within flood zones 2/3 and the flood risk map shows the whole site is in danger of flooding. There is clear evidence of flooding on the land and horses standing in mud. It is therefore highly questionable whether this is a suitable site for an equine business venture of the size proposed.

Highways - The site is set in a rural location with narrow lanes and few passing places. It is unclear from the application form the number of vehicles expected to visit and their size on a regular basis. There are serious concerns whether the road network can cope with additional traffic the proposal will generate.

The site plan does not include a parking area only a turning area. This could lead to vehicles parking by the entrance and blocking the lanes.

General Comments - The Parish Council questions the accuracy of statements made within the application form:

- The description of the proposal does not include change of use from agricultural to commercial.
- The Parish Council has seen evidence of supplementary feeding of horses on the land which therefore should be included in the application.
- Building work has already started on site. The Parish Council has been monitoring the use of this site for some time.
- The application form states there will be no gain of residential units but the application includes permission for a temporary mobile home.
- No additional employees will be required in connection with the proposed business. It is inconceivable that the applicant will be able to cope with the workload of breeding, schooling, breaking and rescue horses on her own. These areas are known to be of high risk of serious injury and should not be carried out as a lone worker.
- Dates and names contained on the form are inconsistent.
- Planning Policy - The application is silent on many aspects or does not provide detailed information in order to justify development under policies CS5, CS6, CS7, CS17 and CS18.
- The NPPF has a presumption in favour of sustainable development.

The Parish Council does not consider the application has proved to be of economic, social or ecological benefit.

4.2.3 A total of 6 objections have been received, one of which has been lodged on behalf of a number of local residents, and raise the following concerns:

- Impact of noise, smell, vermin and flies on neighbouring residential property.
- Overdevelopment of site - proposed buildings will be over bearing in relation to existing property and garden
- Visual impact on the landscape and public footpath ROW1
- Impact on wildlife with loss of flora / fauna
- Issues of drainage and flooding and related pollution. Concerns regarding intention to discharge surface water into existing watercourse. Land is wet with standing water for much of year.
- Previous owners of the land have installed pipe works and an inspection chamber to drain the water.
- The majority of the land is within flood zones 2/3.
- Rainwater should be collected for re-use on site. No mention is made of the run off surface water from the yard.
- Concerns regarding increase in traffic and parking issues. It is expected that there will be at least two cars for the residential element of the application in addition to other persons calling at the site. Delivery and collection of horses and equipment will necessitate the use of large vehicles.
- Access and parking is a major concern. The plan shows a turning area to be stoned but there is no indication of where this stoned area and the concrete for the stables ends.
- Concerns regarding waste disposal of manure.
- Foul Sewage is to be disposed of into a septic tank but no details are given nor location shown on the plan accompanying the application.
- Inaccuracies on the application form. Form states that development has not commenced although hard standing been laid, buildings introduced on site and land use changed.
- The proposal is for a fully commercial stable yard together with a mobile home and it is suspected that a further application for a residential dwelling would be following at the expiry of the three year period. Land is in open countryside where a new dwelling would only be allowed to support a business.
- The application mentions a track to the west of the site but it is difficult to see where the development could be sited on that side as there are trees up to the boundary and the brook runs through the site.
- Applicant refers to specialising in American Paint horses but no evidence has been found of her being a member of the UK Paint Horse Association.
- Applicant has 24 horses and will also have other horses from private clients for breaking and schooling. Proposal does not meet the required standards for grazing without supplementary feeding.
- There is no proven need for a personal presence on the site 24 hours a day. The incidents quoted may not have been prevented by any physical presence on the site.
- The manège is of a standard size for stables. The absence of lighting may have an impact on financial viability of the business.
- Landscaping will not obscure the amount of built development on this site. Trees currently affording protection are not on the application site nor under the control of the applicant.

4.2.6 A total of 15 letters of support have been lodged and make the following points:

- Applicant is an experienced breeder, dealer, breaker and trainer providing equestrian medical care and development is paramount to the continuation of the family business and its work with troubled mistreated horses.
- Have visited the proposed site and seen workers carrying out repairs and unblocking work to drains, to reduce sitting water, but seen no evidence of the brook bursting its banks.
- Land is of good free draining soil and drainage works have been carried out to prevent flooding.
- Site is suitably situated for stables, menage and mobile home, with good access and road networks for the business to succeed.
- Proposal has benefits for local community and will help economy, production of hay, feed, the need for a blacksmiths.
- Proposal will maintain grazing land.

5.0 THE MAIN ISSUES

- Principle of development / Policy Framework
- Details of Proposal
- Background to Proposal
- Appraisal
- Financial sustainability
- Visual Impact and Landscaping
- Drainage
- Highways
- Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development/Policy Framework

6.1.1 The application is considered in the light of the National Planning Policy Framework (NPPF) which replaced the majority of national policy statements and guidance including Planning Policy Statement 7 (PPS7), Sustainable Development in Rural Areas.

6.1.2 Part 11 of the framework relates to: Conserving and enhancing the natural environment and is relevant to the consideration of the application. This states that the planning system should contribute to and enhance the natural and local environment by way of a number of measures including the protection and enhancement of valued landscapes, geological conservation interests and soils and wider benefits of ecosystem services. It requires that impacts on biodiversity are minimised, the avoidance of unacceptable levels of soil, air, water or noise pollution or land instability; to wider ecological networks.'

6.1.3 Paragraph 28 of the NPPF requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This includes supporting sustainable growth and expansion of all types of business and enterprise in rural areas and the promotion of the development and diversification of agricultural and other land-based rural

businesses.

- 6.1.4 Paragraph 55 of the NPPF sets out the circumstances in which it is necessary to provide new isolated dwellings in the countryside such as where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. This states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. e.g the essential need for a rural worker to live permanently at or near their place of work in the countryside. The main issue for consideration is therefore whether there is an essential need for a worker to be accommodated on the holding.
- 6.1.5 A functional test is therefore undertaken in order to ascertain whether it is essential for the proper functioning of the enterprise for the worker to be readily available at most times. The adopted SPD (Type and Affordability of Housing), para 3.2 states “time” being 24 hours a day, 7 days a week.
- 6.1.6 The consideration of the application should take into account whether the problems/emergencies are likely to occur during normal working hours (even if these hours are long). If this is the case, emergencies/problems can be dealt with as part of the day to day routine and this does not call for a worker to live on site.
- 6.1.7 Whilst PPS7 (Sustainable Development in the Rural Areas) has been superceded by the NPPF the following general principles and tests against which proposals for temporary agricultural dwellings are considered to generally still apply:
- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
 - (ii) functional need
 - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
 - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
 - (v) other normal planning requirements, e.g. on siting and access, are satisfied.
- 6.1.8 The application is also considered against the following policies of the Shropshire Core Strategy:
- 6.1.9 CS5: Countryside and Green Belt
CS6: Sustainable Design and Development Principles
CS7: Communications and Transport
CS11: Type and Affordability of Housing
CS17: Environmental Networks
CS18: Sustainable Water Management
- 6.1.10 Adopted Policy CS5 (Countryside and Green Belt) seeks to strictly control development in accordance with national planning policies protecting the countryside. This states that a dwelling may be permitted where the applicant has demonstrated a need that relates to agricultural, forestry or other essential

countryside workers and there are no unacceptable adverse environmental impacts.

- 6.1.11 The policy also generally allows for agricultural/horticultural/forestry/mineral related development along with other uses appropriate to a countryside location.
- 6.1.12 Policy CS6 seeks to create sustainable places and to ensure that development is designed to a high quality using sustainable design principles.
- 6.1.13 New development is also required to protect, restore, conserve and enhance the natural, built and historic environment and to be appropriate in scale, density, pattern and design taking into account local context and character. It is also required to contribute to the health and wellbeing of communities, including safeguarding residential and local amenity.
- 6.1.14 Policy CS7 seeks to achieve a sustainable pattern of development by improving accessibility, managing the need to travel, offering options for different travel needs and reducing the impacts of transport.
- 6.1.15 Policy CS11 relates to business case requirements where it is necessary to establish a functional need for a new rural dwelling.
- 6.1.16 Policy CS17 aims to ensure that development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors;
- 6.1.17 Policy CS18 requires development to integrate measures for sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity within Shropshire. All proposals are required to include appropriate sustainable drainage systems (SUDS) to manage surface water and aim to achieve a reduction in the existing runoff rate, and not result in an increase in runoff and incorporate water efficiency measures.

6.2 **Details of the Proposal**

- 6.2.1 The application proposes the introduction of a 10 box stable block and menage and seeks temporary three year consent for a temporary mobile home in connection with the proposed equestrian use.
- 6.2.2 The proposed mobile home is to be sited relatively close to the northern boundary of the site adjacent to an existing stretch of hedgerow. The proposed stable block is shown predominantly to the south west of this and to the west of that is the proposed ménage.
- 6.2.3 The proposed caravan is to be occupied by the applicant and her two children and is to include three bedrooms. Its dimensions are to be 40ft by 25ft with a proposed green finish.
- 6.2.4 The proposed stable block is to be of a U-shaped plan around a yard and is to incorporate a total of 10 stables and 2 tack rooms with access to the proposed

ménage provided by way of a central access through the building. The design incorporates a low shallow pitched roof and stable type doors interspersed with small single light windows. The building is to measure 184 square metres, with an eaves height of 2.6m and an overall height of 3.5m. Materials are to include block walls with a pitched grey felt roof (with one clear roof sheet per stable) over a concrete base and creasoted timber wall cladding.

6.2.5 The proposed menage is to measure 40m by 30m and is intended for the exercise, training and breaking of horses. This is to have a sand base and is to be enclosed by a 1.6m post and rail fence with a creosote finish. No lighting is proposed.

6.3 **Background to Proposal**

6.3.1 The applicant has provided additional information in support of the application as follows:

6.3.2 In the last five years the applicants' principle business has involved:

- 6.3.3
- Teaching people to ride horses
 - Clipping horses, rug repairs and breeding using between 2 and 6 mares of non-specific breeds.

6.3.4 The business is focussed on breeding and selling quality American Paint horses and coloured part-bred show ponies and breaking and schooling young horses for private clients.

6.3.5 The applicant currently owns 24 horses of varying ages including:

- Stallions and brood mares kept for breeding purposes.
- Younger horses being broken, schooled etc ready for sale.

6.3.6 It is explained that in terms of security high value horses will be kept at the stables and it is reported that over the last six months a number of criminal incidents have occurred including theft, damage to property and horses being tampered with. Incident/crime numbers have been provided with the supporting information.

6.3.7 The applicant's proposed use of the land and buildings is for;

- The breeding of American Paint horses.
- The breaking, schooling and producing of horses (preparation for competition ring or sale).
- Rehabilitation of mistreated horses and ponies.

6.3.8 It is explained that due to economic changes breeding of general horse breeds is returning a low level of profitability. The applicant is principally operating from rented premises on a short-term basis with no security of tenure and has decided to focus the business on the breeding of specialist breed horses (American Paint). She has two stallions and six brood mares from which she intends to breed.

6.3.9 Additional services/income streams include;

- teaching of horse riding which will reduce over time.
- clipping of horses

- repair of horse rugs

6.3.10 The applicant currently lives some six miles from the site by way of a number of lanes and ten to fifteen minutes drive from the application site by car and principally operates from rented premises, some 2.5 miles and five to ten minutes drive from the application site, which comprises of basic stables and grazing land.

It is stated that the application site was purchased with the intention of use as a breeding facility for the following reasons:

- A level area of grassland in a peaceful location where horses can be viewed with ease from the proposed stable area.
- A safe and adequate access for cars and horse trailers
- Potential for a secure and private location to offer the quiet operating area for a breeding enterprise.

6.3.11 However, it is claimed that the site is currently unsuitable for this use on account of the need for a tack room, ten stables and a feed room in order to operate efficiently and at a sufficient standard.

6.3.12 It is explained that the applicant is currently involved in feeding horses at three different locations with insufficient housing/stabling and that this is proving more time intensive than a purpose built facility.

6.3.13 This is stated to be detrimental to the welfare of the horses. The applicant's state that discipline is necessary to breed, break and school horses and that this is not achievable with the insufficient facilities currently at the application site and that permanent stabling is necessary for the tasks to be carried out in a normal manner. In addition, it is claimed that carefully laid out stables with drainage can allow appropriate working conditions during winter months and that the lack of undercover storage currently trigger messy ground conditions for the yard.

6.3.14 The proposed facilities will allow the breeding enterprise to be expanded in line with expectation. Between the months of November and March it is intended that the horses will typically be turned out to pasture for three hours per day subject to ground conditions.

6.3.15 It is explained that the applicants' son and daughter are often on hand to help and the intention is that the applicant's daughter will become more fully involved in the business.

6.3.16 The applicant has confirmed that there will be no teaching or clipping carried out from the proposal site to ensure a calm tranquil environment for breeding stock and to limit disease/virus contamination. However the intention is that clients will be taught on their own horses at their property or at an indoor school that is for hire. Clipping is a mobile service, which is done at the client's property on their horse. Rug repairs are a service that is also done from home.

6.3.17 It is proposed however that breaking and schooling would be offered as services at the application site. The applicant explains that these services are labour intensive requiring attention to be given to the subject horses on several occasions per day and that travelling between sites is not conducive to providing the necessary

attention to each horse.

- 6.3.18 The applicant has barns and grazing land some 2.5 miles away which is to be kept on for horses that do not require constant attention, as in mares in foal or horses with a medical condition or horses that require daily work. An additional 6 acres are rented as needed a mile and half away between Penley and Overton.
- 6.3.19 It has been suggested CCTV or monitors could assist. However the applicant contends that these would not help as in the event of an emergency, due to the distance involved this would involve delays in assessment and administration of treatment.
- 6.3.20 The applicant has provided details to the Local Planning Authority of a search for properties for sale looked at within a 5 mile radius of the surrounding area offering land together with permanent accommodation and has provided reasons as to why these are above the required price bracket, do not offer the level of accommodation required or the amount of land or necessary security arrangements.
- 6.3.21 It has been suggested the applicant should consider whether a small welfare residential unit would meet the functional requirements. However, it is claimed that this would not meet the needs of the business on account of the applicant needing to be on site 24 hours per day throughout the year due to the long foaling season and potential for problems.
- 6.3.22 The applicant wishes to undertake a small amount of full holiday livery when owners are away for a week at a time. Daily livery will not take place.

6.4 **Appraisal**

- 6.4.1 The Council instructed Reading Agricultural Consultants Ltd (RAC) to undertake a desktop appraisal of the application and this has been prepared with regard to the advice in the National Planning Policy Framework (NPPF) and the Shropshire Core Strategy Development Plan, adopted March 2011. This was undertaken in response to documents submitted with the application including a business appraisal, Design and Access Statement, Supplementary Planning Report, cash flow predictions and projected Profit and Loss Accounts.
- 6.4.2 As background it was explained that the applicant currently operates her equestrian business from three rented sites around Penley and lives some six miles away with the rented land and stables being held on short term leases.
- 6.4.3 'The applicant's equestrian business had previously been with teaching, clipping horses, rug repairs and breeding horses (non-specific breeds). The applicant is proposing to focus on an equine breeding programme using and importing American Paint horses. The business appraisal identifies a strong demand for this type of horse with very few blood lines in this country. The business appraisal further identifies providing a breaking and schooling facility for client's horses. Typically these horses will be on site for a six to eight week period. The applicant will also offer equine rehabilitation facilities.
- 6.4.4 The business appraisal notes the applicant had a total of 24 horse under her care (August 2014) but with a more typical average number of about 17 horses. The

supplementary planning report identifies the applicant owning two stallions and six brood mares with all six brood mares due to foal in 2015.

- 6.4.5 The labour for the enterprise is provided by the applicant and her family and the reports note the current difficulties experienced with having the horses spread over three different rented units and the applicant living some distance away from these sites.
- 6.4.6 It is understood that the applicant proposes to build a new block of 10 stables, tack room and feed store and a 40m x 30m outdoor menage and site a temporary mobile home at the application site, subject to obtaining planning permission.'
- 6.4.7 The appraisal explains that any assessment of essential need requires the following:
- An evaluation of risk;
 - The frequency and type of out-of-hours emergency situations arising;
 - The scale and loss should that emergency situation arise;
 - The potential for an on-site worker to identify the problem; and
 - His or her ability to rectify the problem.
- 6.4.8 The supplementary planning report makes express reference to welfare and health and the applicant's responsibility on site. Under the Animal Welfare Act 2006 it is an offence to cause unnecessary suffering to any animal. The Act also contains a Duty of Care which means that anyone responsible for an animal must take reasonable steps to ensure the animal's needs are met and its welfare assured. In this case the overall responsibility or 'duty of care' for animal welfare for the horses stabled or under the applicant's care lies with the applicant.
- 6.4.9 In 2002 the equine industry and welfare organisations produced guidelines for the welfare of all horses, ponies and donkeys (The Equine Industry Welfare Guidelines Compendium for Horse, Ponies and Donkeys produced by the National Equine Welfare Council) which was revised in 2005 and again in 2009 following the publication of the Animal Welfare Act 2006. This refers to the availability of staff and states that:
- 6.4.10 Sufficient staff must be provided at all times to ensure proper, regular and timely attention to all horses held'.
- 6.4.11 It is clear from the business and supplementary planning report that the applicant's equestrian business provides a range of services (not all though would require on-site attendance) and where the breeding, foaling of mares, and sale of her own horses and breaking and schooling of client's horses is expanding. These activities require a great deal of management expertise and attention to detail and the list of activities set out in the supplementary report itemised under 'Functional Need' is agreed with. These can be grouped under the following:
- The close supervision, management and daily requirements of horses (stallions and mares) either boxed in stables or in grass paddocks;
 - The routine exercise, schooling and training of individual horses;

- The close supervision of stallions and mares at covering; and specifically the brood mares at foaling;
- Close supervision of any horses undergoing a rehabilitation programme;
- The provision of security for horses and youngsters from theft or malicious attack;
- Dealing with unforeseen emergencies.

6.4.12 It is agreed that horses need to be inspected frequently for signs of illness, distress or injury, and equestrian establishments have a duty of care to ensure the rapid diagnosis and treatment of injury, disease or infestation. The applicant has identified a number of recent incidents where prompt action has been required but speed of response was delayed due to living away from the site.

6.4.13 It is agreed that unforeseen incidents can cover a wide range of situations as described by the applicant, from dealing with emergencies such as a horse cast in its box or a horse with colic, to damage to the stables and associated buildings from the horses, severe weather conditions or fire.

6.4.14 The new stables will provide the necessary accommodation for brood mares and stallions, storage of tack and feed. The menage will allow an exercise, training and schooling area for horses.

6.4.15 Overall it is agreed that there is an essential need for a resident worker to live on site to ensure the welfare and security of the horses is not compromised and the applicant's business can develop and expand as identified in the business appraisal.'

6.5 **Financial Sustainability**

6.5.1 Reading Agricultural report that 'any sustainable rural enterprise such as the applicant's equestrian enterprise will need to utilise its resources in such a way so as to function properly. In general, any business has to have sufficient funds available to fund its day-to-day trading (cash flow) and be sufficiently profitable in order to reinvest with the business or show a reasonable return on invested capital.

6.5.2 No business can be economically viable if over the medium to long term its expenditure exceeds income; and these three aspects are essential to sound business planning.

6.5.3 The applicant has provided cash flow forecasts for the expanding business and projected profit and loss accounts. These are considered to be commercially sensitive and details are not intended for the public domain.

6.5.4 The standard accepted test for any rural worker's dwelling is that the business generates sufficient profits to provide an adequate return to land, labour and capital and be able to finance the build-cost of the dwelling, or in this case the purchase of a mobile home. The cash flow identifies private drawings well in excess of the minimum wage which is approximately £13,000. The sum identified in the cash flow would also be sufficient to provide for the additional family labour.

6.5.5 Reading Agricultural calculate a return to land equivalent to £730 (4.85ha x £150/ha) with a reasonable return on investment plus the forecast cost of the

stables, menage and mobile home to be about £3,500. These (with the labour charge of £13,000) total in excess of £17,000, but can be met from the projected profit and loss.

6.5.6 Overall it is considered that the business accords with paragraph 28 of the NPPF in that there is a reasonable prospect that the business will become a sustainable new enterprise.’

6.5.7 It is also considered that the proposed siting of the dwelling would meet the essential needs of the unit.

6.5.8 Reading Agricultural have therefore concluded that the application meets the requirements of the NPPF and local plan policies for the change of use from agricultural to equestrian, construction of a new stable block, menage and temporary siting of a mobile home.

6.5.9 In view of the findings of Reading Agricultural officers consider it would be difficult to sustain an objection to the mobile home element of the proposals.

6.6 **Visual impact and landscaping**

6.6.1 Part of the northern boundary to the site (at its eastern end) is formed by established hedging. Additional hedgerow planting is proposed along the eastern and southern site boundaries with some gaps in the existing hedge proposed to be re-planted with native hedge species along the eastern boundary.

6.6.2 Existing trees along the eastern boundary of the site connect with an existing hedge line between the site and Brook Mill to the east.

6.6.3 It is considered that the visual impact of the proposed caravan to the wider landscape setting would be relatively minor given its scale and location adjacent to the existing hedgerow.

6.6.4 In terms of the proposed stable block it is considered that the building is of a type, function and scale which would not appear out of place within a countryside setting.

6.7 **Drainage**

6.7.1 The Council’s Drainage Engineer has been consulted on the application and requested the submission of drainage details, plan and calculations.

6.7.2 The site is located within Flood Zone 3, 2 and 1as identified by the Environment Agency and a Flood Risk Assessment Statement was required to be carried out and submitted.

6.7.3 Paragraph 100 of the NPPF requires local planning authorities to direct development away from areas of land that are as highest risk. The NPPF aims to protect people and property from flooding and in paragraph 100 it states that “Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change”. This is typically done by applying the sequential test. This approach is designed to ensure that areas at little or no risk of flooding are developed in preference to areas that have a

higher risk and it is a matter for the Local Planning Authority to decide whether the scheme triggers the need to apply the sequential test.

The proposed development still retains a safe access even during a flood event. Part of the site does fall within flood zone 3 and 2 and the caravan has been located so that part of the caravan is in flood zone 2 and 1. The design has avoided placing the caravan at risk from flooding and that the existing accesses would ensure that there is always a safe route of access and egress.

The following comments have been received from the Council's Drainage Engineer in response to information received.

- 6.7.4 The development is within an area of pluvial and fluvial flooding therefore it is to be expected that some flooding will occur. The development is classed as Less Vulnerable according to Table 3 of the NPPF, which is acceptable for Flood Zones 2 and 3. A small volume of flood compensation was requested to take account of the loss of flood plain as a result of the stable block construction. This has been provided by the agent. The ménage is to be constructed of a free draining all weather material, which will be better suited to wet ground than the present situation. As such taking a risk based approach it is considered that the site would avoid any flood risk to people and property and as such there is no requirement to apply the sequential test. The scheme of providing flood storage mitigation ensures that the proposal would not exacerbate any flooding problem or move flooding elsewhere.
- 6.7.5 The compensation volume proposal and FRA are deemed to be satisfactory. However details have not yet been received of the surface water drainage system and details of the septic tank and drainage field calculations. These details could be conditioned if planning permission is to be granted.
- 6.7.6 Concerns have been raised locally regarding the waterlogged condition of the site and its implications in terms of animal welfare. This is noted within the area of the proposal site although it is also noted that this represents a relatively small area of the overall grazing land under the ownership of the applicant and that the proposed ménage, at a scale of 30m by 40m, would provide a large all weather surface suitable for exercising horses.
- 6.8 **Highways**
- 6.8.1 Vehicular access is provided at the north east corner of the site off a minor country lane which links Penley to the north to the small settlement of Hampton Wood to the south.
- 6.8.2 The applicant is currently travelling to the site from land rented elsewhere and a number of horses are already grazing the site.
- 6.8.3 The applicant has advised that there will be no regular daily traffic coming to the site and that anticipated traffic movements are to consist of the following:
- The applicant driving with a car in and out once per day
 - The applicant's son in and out once per day to work

- On average 2 clients a week coming in and out once

6.8.4 Vehicles will principally be cars but there will be some horse trailers. Generally horses delivered to the site for breaking will be there for 6-8 weeks at a time. The normal day to day operation will not trigger the need for lorries/large vehicles to attend the site on a daily basis. It has been brought to officers attention that some deliveries to site have been made with large curtain sided lorries which have had cause to park in the lane whilst unloading. The agent on behalf of the applicant has advised that the proposed site will have a parking area allowing delivery vehicles to park within the site. Hay will be delivered by a landrover and trailer. The applicant has not laid out a parking area whilst the application is still being considered. It is considered that a planning condition can be imposed requiring the submission of parking/turning areas within the site to allow for vehicles to be loaded and unloaded. The size of vehicles attending the site is not a matter that can be reasonably controlled by the council however the lane currently serves a Maarquee Business, storage facility and farm enterprise. This level of traffic generation is considered to be low and access to and from the site would not cause significant harm to users of the lane over and above the existing uses in the locality.

6.8.5 It is stated that there are no plans for a riding school or for clipping to be carried out from the proposal site. The reason given for this is that this is to ensure a calm tranquil environment for breeding stock and to limit disease/virus contamination.

6.8.6 A small amount of full holiday liveries is proposed as part of the business for when owners are away for a week at a time and it is confirmed that daily livery will not take place.

6.8.7 Therefore it is suggested that equine related vehicle movements will be at relatively low levels and that there will not be high levels of movements as might be associated with other equine enterprises such as a riding school.

6.9 Ecology

6.9.1 The Council's Ecology officer was consulted on the application. It was noted that there are existing ponds and watercourses within the vicinity of the site and comments were received requesting that survey work be carried out. A Habitat Assessment & Protected Species Survey was subsequently carried out by Churton Ecology in September 2014.

6.9.2 An assessment of all pools for Great Crested Newt within a 250m radius of the site was undertaken, to include 3 pools at distances of 65m, 200m and 180m, using the Habitat Suitability Index.

6.9.3 The report concluded that only one pond is considered to have potential to support breeding Great Crested Newts. It was considered that the distance between the development site and the pond and the lack of connectivity for newt dispersal entails that the development is unlikely to cause an offence to Great Crested Newts and no further survey work was recommended.

6.9.4 The survey found no evidence of any other protected species on the site although it was deemed to have potential to support foraging and commuting bats and to support nesting birds.

- 6.9.5 In view of the above conclusions conditions and informatives have been recommended relating to landscape, Great Crested Newts bats and birds.
- 6.9.6 The report notes that the ditch bordering the northern boundary of the site has a local priority species *Berula erecta* – Lesser Water-parsnip and Churton Ecology considers the ditch has a role to play in the drainage of the site and surrounds and may need future management to retain its function.
- 6.9.7 Churton Ecology has made recommendations as to how to enhance and protect the sites biodiversity.
- 6.9.8 This involves avoiding development within close proximity to the northern boundary ditch, keeping this area open maintained as grazed open habitat by:
- the constitution of grazing without trampling through use of a post and wire fence as existing;
 - the avoidance of overshadowing by buildings. Churton Ecology specifically recommends that no additional hedge planting is planted next to the ditches or streams. The current site plan shows the development to be close to the northern boundary ditch and indicates hedge planting.
- 6.9.9 SC Ecology would expect the findings from the ecological survey report to be taken into consideration during the site layout and landscape plan. SC Ecology recommends that a distance of at least a 5m buffer from the ditch to the proposed development is maintained. There should be no additional hedge planting along this section, and the area should be left grazed as per Churton Ecology's recommendations. It is therefore recommended that any planning approval includes a condition requiring the submission of a Habitat Protection Plan and a Wildlife Protection Plan.
- 6.9.10 The application has been screened by way of the Habitat Regulation Assessment process and no potential effect pathways have been identified by which the application could impact upon features of designated sites.

7.0 CONCLUSION

- 7.1 On balance the proposed equestrian use is deemed to be appropriate within its countryside location and it is considered that it is essential to the proper functioning of the rural enterprise for a worker to live on site as verified by the report undertaken by Reading Agricultural. The proposal is therefore deemed to comply with the relevant policies CS5, CS6, CS7, CS11, CS17 and CS18 of the adopted Core Strategy, the adopted SPD (Type and Affordability of Housing) and the NPPF and is recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 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, 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 six weeks 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.

8.2 Human Rights

Article 8 gives 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.

8.3 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 1990.

9.0 Financial Implications

There are likely financial implications if 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 dependent 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.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

13/00668/AGR Open plan barn with double pitched roof, clad with profiled steel sheeting colour green, with timber vertical cladding also coloured green Field shelter also double pitched roof, felted with horizontal feather edged boarding also coloured green, and on skids. PPREQN 20th March 2013

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 - Conditions

APPENDIX 2 – REASONS FOR NEED TO BE ON SITE..

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The operational development hereby permitted by this permission 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 deposited plans and drawings as amended by the revised plan Numbers 9063-02A; 9063-03; 9063-04A; received on the 4th December 2014 and the site plan received on the 4th November 2014.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The caravan hereby permitted shall only be occupied by the by Mrs Michelle Kelsey and their resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the caravan are occupied by them, whichever is the shorter.

Reason : To enable the Local Planning Authority to give further consideration to the caravans retention at the expiration of this permission having regard to the circumstances existing at that time.

4. When the caravan ceases to be occupied those named in condition 3 above, or at the end of 3 years, whichever shall first occur, the use of the caravan shall cease and all caravans, and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.

Reason: To enable the Local Planning Authority to give further consideration to the caravans retention at the expiration of this permission having regard to the circumstances existing at that time.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No caravan shall be sited or operational development commenced on site until a scheme of proposed surface and foul water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the caravan is occupied and or stables brought into use (which ever is the sooner).

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

6. No operational development shall be commenced or caravan sited on the land until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

a. An appropriately scaled and detailed plan showing 'Wildlife/habitat Protection Zone' where construction activities are restricted and where protective measures will be installed or implemented (i.e. buffer of 5m from the northern ditch to the proposed development, buffer area to be fenced using permeable fencing during development to restrict machinery and protect the ditch).

All construction activities shall be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance.

7. No operational development or siting of any caravan approved by this permission shall commence until details of existing and proposed finished floor levels for the mobile home and stables have been submitted to and approved by the local planning authority.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

8. Notwithstanding the details shown on the approved plans, within three months of the date of this decision no operational development shall be commenced or caravans sited until full details of landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and to protect the amenity and wildlife interest of the site.

9. Within 3 months of the date of this decision details relating to the storage and handling of manure and other waste shall be submitted to the Local Planning Authority for approval in writing prior to work commencing on site. The approved scheme shall be fully implemented in accordance with the approved details and maintained thereafter.

Reason: To safeguard the amenity of the locality.

10. Within 3 months of the date of this decision details for the parking, turning, loading and unloading of vehicles shall be submitted to and approved in writing by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the caravan or completion of the Stables (which ever is the sooner) and thereafter only be used at all times for those purposes. All vehicles shall be loaded and unloaded within the site. Only commercial vehicles under the ownership of the applicant shall be permanently parked on the site

Reason: To provide for the parking loading and unloading of vehicles off the highway in the interest of highway safety.

11. Within 3 months of the date of this decision notice a habitat management plan shall be submitted to and approved by the local planning authority. The plan shall include:

- a) Description of the features to be managed;
- b) Aims and objectives of management;
- c) Appropriate management options for achieving aims and objectives;
- d) Personnel responsible for implementation of the plan;

The approved management scheme shall be fully implemented and maintained for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

12. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species

13. Within 6 months of completion of the development hereby approved all mobile shelters, structures and other paraphernalia not approved under this consent shall be removed from the site.

Reasons: To protect the amenity of the site.

14. No mobile field shelters, other shelters or structures shall be stationed on the site above.

Reason: To safeguard the amenities of the site.

15. The riding arena hereby approved shall not be used for purposes of commercial training, riding or instruction of horses and shall only be used for horses in the ownership / care of Mrs Michelle Kelsey.

Reason: To safeguard the amenities of the locality

APPENDIX 2

REASONS FOR NEED TO BE ON SITE.

1. Welfare and correct management of horses at all times
2. Welfare of broodmares and care of foals, while awaiting birth and once foaled.
3. Welfare and health and to reduce risks to broodmares imported in foal - mares that have travelled extremely long journeys from the USA, run the risk of travel sickness, colic, abortion, exhaustion, dehydration, severe stress and anxiety, all conditions which need constant and close supervision, correct care and attention and instant veterinary assistance to ensure the horse is returned to good health and a successful healthy pregnancy.
4. Stallions need careful management and correct daily handling and supervision, a stallion that is left not handled daily can become unruly, feral and dangerous, they need a consistent management, secure safe tranquil environment.
5. Foals are normally born January - September however they are still possible to be born right through to December. Imported mares foal in our winter months, of which would have been their summer in country of origin.
6. Foals that are born in winter months cannot be foaled outside and need to be stabled, due to the severe weather this country.
7. A mare can be either early or late on her due date and normally give very few signs that foaling is due to happen and the actual event takes minutes, it is well advised to supervise and regularly check a mare due to foal throughout the day and night half hourly checks are recommended, for a period of two months either way of the due date.
8. Complications: mares due to foal can experience numerous complications, the foal stuck, breech, maiden mares foaling are often very panicked by foaling and the foal can be trampled, kicked, rejected or not allowed to suckle.
9. Mares should not foal in groups and need quiet isolation to feel safe to foal; other horses can attack or steal the foal.
10. Foals can be born with numerous problems. The applicant encountered on 12 May, joint ill, due to being born outside in wet conditions and not having stables to come into. Joint ill is very serious in a new born and must be treated immediately, under veterinary advice. Joint ill is when damp wet conditions get into the new born foals umbilical cord causing swelling of the joints, which then leads to septicaemia and death.
11. Foals and mares are prone to colic, this is spasms and cramps of the intestine, not allowing food to be digested or waste passed, colic is a common problem in horses and once again cannot be left untreated, as even with an emergency operation can lead to death.
12. Horses who are recovering from colic still need round the clock supervision, as colic may return. Horses with colic often need several helpers, as colic horses need to be kept walking, as rolling on the ground can twist the gut.
The applicant has had a couple of colic's in the last 6 months, which resulted in her daughter and her walking the horses for hours and then supervising its recovery for 24 hours and gradually reintroducing forage, until the horse is back to good health.
13. Rescue horses that have been starved have to be fed little and often day and night, so not to shock their digestive system into colic, until they are once again used to a correct feeding program.
14. Other problems that need immediate veterinary care are abdominal hernias in foals and young stock, which then require an operation and 48 hour supervision after operation.
15. Gelding of colt foals have to be closely monitored, for the first week as they may rupture, get an infection or severe swelling or a bleed which leads to death.
16. Foals with contracted tendons at birth need to be identified and operated on within hours of birth.

17. Travel sickness, horses that have under gone long journeys or been transported from Ireland or further afield, can often arrive exhausted and dehydrated, which leaves them open to travel sickness, which can start with a colic, high temperature and a severe flu like illness.

18. Equine flu is extremely dangerous to the horse and if left untreated can lead to death, as a horse does not have the ability to shake off flu, like humans, flu in a horse can lead to pneumonia breathing difficulties and death.

19. Stallions have to be supervised continuously, as if they get loose with other horses, especially geldings or other stallions or colts, their natural behaviour is to drive others males away from the herd, this is by way of chasing and fighting, which is horrific as other males get severely attacked.

20. Horses can contract viruses like equine flu or strangles that need infected horses to be isolated and nursed 24 hours a day, often for a period of 6- 7 weeks, the person nursing the infected horses needs to shower and change clothes before going near any horses that are not affected by the virus to reduce the chance of it spreading.

21. A few of the problems encountered over the last 6 months, with the horses, all of which without correct nursing and veterinary attention could have led to the animals being destroyed;

- Suspected fractured jaw and two smashed teeth
- joint ill
- Spasmodic colic
- Colic of a competition pony, on return from show.
- Gelding
- Back problems requiring an equine back manipulator therapist
- Abdominal hernia in a youngster
- Horse cast with legs in gate
- Horse caught with its back leg stuck in another horses rug straps after they had a kicking argument.
- Horse cast in stock fence
- Leg injury
- Choke, this is where a horse rushes its food and food becomes logged in its wind pipe, needing immediate veterinary assistance, to allow the horse to breathe again.
- Punctured sole (foot abscess)
- General cuts and grazes
- Horse tangled in fence needing wire cutters and several people to get it free, as horse thrashing on floor to try and free itself.

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