



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Friday, 1 May 2015

**Committee:
North Planning Committee**

Date: Tuesday, 12 May 2015

Time: 2.00 pm

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

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
John Cadwallader
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes
VACANCY

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 252726

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 17th March 2015, attached, marked 2.

Contact Shelley Davies on 01743 252719.

3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Development Land South Of Aspen Grange, Weston Rhyn, Oswestry, Shropshire - (14/01654/OUT) (Pages 7 - 16)

Outline application for residential development (All Matters Reserved).

6 Residential Development Land West of Baytree Close, St Martins - (14/04980/FUL) (Pages 17 - 30)

Erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme).

7 Development Land South Of Magna Dene, Ash Magna, Whitchurch, Shropshire - (14/05017/OUT) (Pages 31 - 46)

Outline application (access for approval) for the erection of one dwelling.

8 Barn Brookside Caravan Park, Kinnerley, Oswestry, Shropshire - (15/00725/FUL) (Pages 47 - 54)

Erection of single storey front extension

9 Ifton Heath C P School, Overton Road, Ifton Heath, St Martins, Shropshire - (15/00537/FUL) (Pages 55 - 66)

Change of use of part of former school site to provide temporary residential site for single travelling showpeople family for a period of up to one year.

10 Proposed Cafe At Hadley Farm, Wrexham Road, Whitchurch, Shropshire - (15/00329/FUL) (Pages 67 - 72)

Erection of a replacement café.

11 Hadley Farm, Wrexham Road, Hadley , Whitchurch, SY13 3AB - (15/00352/VAR) (Pages 73 - 78)

Variation of Condition No.2 (approved plans) attached to planning permission reference 14/00344/COU dated 5th June 2014 to revise the layout of the caravan park.

12 Appeals and Appeal Decisions (Pages 79 - 106)

13 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 9th June 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.

This page is intentionally left blank



Committee and Date

North Planning Committee

12th May 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 17 March 2015

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 4.30 pm

Responsible Officer: Shelley Davies

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252719

Present

Councillor Paul Wynn (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, John Cadwallader, Gerald Dakin, Steve Davenport, Pauline Dee, Vince Hunt, David Lloyd, Peggy Mullock and Roger Hughes (Substitute) (substitute for David Minnery).

136 Apologies for Absence

Apologies for absence were received from Councillor Arthur Walpole and David Minnery (substitute: Roger Hughes).

137 Minutes

That the Minutes of the meeting of the North Planning Committee held on 17th February 2015 be approved as a correct record and signed by the Chairman.

138 Public Question Time

There were no public questions, statements or petitions received.

139 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

Councillor Pauline Dee declared her interest in planning application 14/05473/FUL as she was a Member of the Shropshire Housing Alliance and left the room during consideration of and voting on this item.

Councillor Joyce Barrow declared her interest in planning application 14/05461/VAR due to a perceived disclosable pecuniary interest and left the room during consideration of and voting on this item.

140 Land At Lostford Lane, Wollerton, Shropshire (14/04787/VAR)

The Principal Planning Officer introduced the application for a variation of Condition No. 1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans. It was explained that the application had been considered at the previous meeting held on 17th February 2015 at which Members had been minded to refuse Planning Permission due to concerns in relation to the design, scale and appearance of the proposed agricultural building. Further information had been provided within the Officer's report which sought to address the concerns raised at the previous meeting. The Officer's report recommended approval of the application. The Principal Planning Officer drew Members' attention to the independent report by Reading Agricultural Consultants.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Karen Calder addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- A number of ecological aspects of the proposal were questioned;
- She confirmed that cattle had only been recently put on the land; and
- The proposals were contrary to Policies CS5 and CS6 of the Shropshire Core Strategy.

The Principal Planning Officer explained that he was unable to answer the questions from the Local Member, but advised that additional conditions in relation to foul and surface drainage could be added to any permission granted if Members felt this was necessary. The Principal Planning Officer referred to the independent report by Reading Agricultural Consultants, noting that although the report did not address the concerns raised by the Committee, guidance in relation to the amount of floor space required for cattle was included and it was for Members to decide how much weight to give this report.

Having considered the submitted plans and given consideration to the independent report by Reading Agricultural Consultants, the majority of Members expressed concern in relation to the design, scale and appearance of the proposed agricultural building and for these reasons considered the application to be contrary to Core Strategy Policy CS6.

RESOLVED:

That planning permission be refused against the Officer's recommendation for the following reason:

The Committee considered that the proposal failed to conserve and enhance the natural environment and that the scale, design and appearance of the proposed agricultural building was not appropriate for the local context and character and as such would be contrary to Core Strategy Policy CS6.

141 Alexandra Road, Oswestry, Shropshire, SY11 1LU (14/05473/FUL)

In accordance with her declaration at Minute No. 139, Councillor Pauline Dee left the room during consideration of this item.

The Principal Planning Officer introduced the application for the erection of 53 extra care apartments with associated support accommodation and 8 bungalows and associated works. The Principal Planning Officer confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area and drew Members' attention to the schedule of Additional Letters.

Mr Paul Wiseman, on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Ms Heather Sutton, on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Vince Hunt, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He welcomed this type of application and the development of a brownfield site but raised concerns in relation to the scale of the proposal; and
- Considered the development would cause overlooking to neighbouring properties.

In response to concerns relating to parking provision, the Principal Planning Officer clarified that there was no policy to require parking provision and added that proposal provided cycle parking for residents and staff.

During the ensuing debate, the concerns of local residents and the Town Council in relation to the scale and density of the development were acknowledged. Members raised concern regarding the balconies on the Northern side of the development that overlooked the proposed bungalows and it was suggested that these be replaced with Juliet style balconies to avoid any issues overlooking.

Having considered the submitted plans for the development, the majority of Members' expressed their support for the Officers recommendation.

RESOLVED:

That the Area Planning Manager/Principal Planning Officer be granted delegated powers to grant planning permission subject to:

- Four of the balconies on the Northern side of the development be replaced with Juliet balconies; and
- The conditions set out in Appendix 1.

Councillor Pauline Dee re-joined the meeting at this point.

142 Development Land South Of Aspen Grange, Weston Rhyn, Oswestry, Shropshire (14/01654/OUT)

The Principal Planning Officer introduced the outline application for residential development (All Matters Reserved) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer drew Members' attention to the schedule of Additional Letters.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Robert Macey addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- The Parish Council objected to the development due to the problems in relation to foul and surface water drainage;
- The site was double the size of the SAMDev site; and
- The drainage issues were an ongoing problem in Weston Rhyn with no permanent solution in sight.

Mr Robert Davies, agent for the application spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Lloyd, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- The development was a strain on the current infrastructure; and
- The temporary solution to mitigate the foul drainage issues was not suitable.

The Principal Planning Officer advised that the concerns raised by Members in relation to foul drainage was a pre-existing issue and it was out of the developers control to enable an upgrade to the foul drainage system.

Having considered the submitted plans the majority of Members present expressed concern in relation to the foul drainage issues and for this reason considered the application to be contrary to Core Strategy Policy CS6.

RESOLVED:

That Members were minded to refuse Planning Permission against the Officer's recommendation.

The Committee raised concern in relation to the foul drainage infrastructure and did not consider the issue could be mitigated by conditions and also that part of the application site was not within the SAMDev.

A further report, on reasons for refusal would be considered at a future meeting of this Committee, in accordance with Shropshire Council's Constitution.

143 Proposed Residential Development Land East Of Kingfisher Way, Morda, Shropshire (14/05461/VAR)

In accordance with her declaration at Minute No. 139, Councillor Joyce Barrow left the room during consideration of this item.

The Principal Planning Officer introduced the application for a variation of Condition No. 12 attached to Planning Application No. 13/01393/OUT dated 31st October 2014 to achieve access from Weston Road only and drew Members' attention to the schedule of Additional Letters.

The Solicitor in attendance drew Members' attention to the legal requirement for reasons for refusal to be clear and precise and capable of being evidenced. Failure to substantiate reasons on the event of an appeal could lead to an award of costs against the Council.

Having considered the submitted plans the Members unanimously expressed concern in relation to the impact on the local highway network and for this reason considered the application to be contrary to Core Strategy Policy CS6.

RESOLVED:

That planning permission be refused against the Officer's recommendation for the following reason:

The Committee considered that the proposal to access the whole of the application site from a single vehicle access would have a harmful effect on the local highway network contrary to Core Strategy Policy CS6.

Councillor Joyce Barrow re-joined the meeting at this point.

144 Development Management Report to seek Delegated Authority to Planning Officers

The Principal Planning Officer introduced the report of the Planning Services Manager.

RESOLVED:

That planning officers be granted delegated authority to review and determine any outstanding planning applications previously considered by Committee, with a resolution for approval, but which require reconsideration in light of the Ministerial Statement of 28th November 2014 and the Cabinet decision of 21st January 2015 provided that any applications, where the balance of considerations would result in a different decision to that taken by Committee, will be referred back to Committee for reconsideration.

145 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area be noted.

146 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 14th April 2015 in the Shrewsbury Room, Shirehall

Signed (Chairman)

Date:



Committee and Date

North Planning Committee

12 May 2015

Item

5

Public

Development Management Report

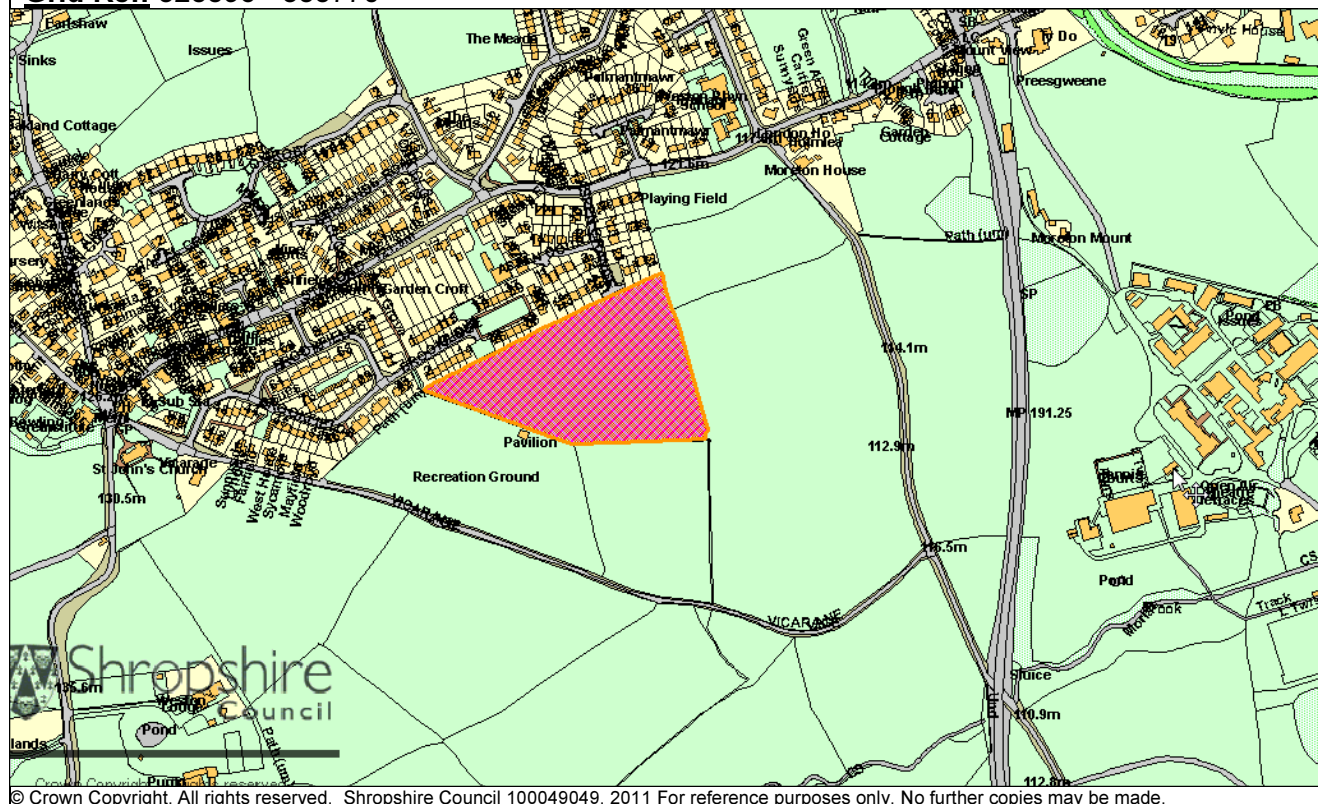
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/01654/OUT	Parish: Weston Rhyn
Proposal: Outline application for residential development (All Matters Reserved)	
Site Address: Development Land South Of Aspen Grange Weston Rhyn Oswestry Shropshire	
Applicant: M Richardson & Partners	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 328896 - 335770



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

ADDENDUM to 17th March Report

1.1 This report is an addendum to the report presented to members in March 2015 which detailed the proposal for outline planning permission for residential development on land at Aspen Grange, Weston Rhyn (all matters reserved). Members at the meeting of the 17th March were minded to refuse the application on the grounds that part of the application is not within the SAMDev and also that the foul drainage infrastructure issues could not be mitigated by conditions.

1.2 In accordance with Part 5, Section 17.4 of the Shropshire Council Constitution, Officers have referred this item back to Members to explain the risks and implications of the contrary decision.

2.0 Matters for Consideration

- Status of SAMDev
- Foul Drainage

2.1 Status of SAMDev

2.1.1 As noted in the March report to committee the SAMDev is not yet an adopted document. Although it has been submitted to the Planning Inspector and the Examination in Public has been held the Council is awaiting modification proposals from the Inspector and will thereafter need to re-consult on these matters prior to adopting the document as part of the development plan. With respect to Weston Rhyn there are outstanding objections relating to the proposed allocated sites, the number of dwellings being allocated, the identification of the village as a cluster and the impact on sewerage. As such only limited weight can be given to the SAMDev. Accordingly the development plan is the saved Oswestry Local Plan, which is at risk of being considered time expired due to its age and non-compliance with the NPPF, and the Shropshire Core Strategy, which does not identify settlements for development or set development boundaries.

2.1.2 Accordingly the advice of officers at the March meeting was that the SAMDev can not yet be given full weight and as such the fact that the site is greater than the site proposed to be allocated in the SAMDev should not be used as the primary reason for refusing the current application. The application should be considered against the three threads of sustainable development in the NPPF. Sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development 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 the conclusion of the March report was that there are no significant or demonstrable harms which would result from the development of this site and therefore that the proposal would constitute sustainable development.

2.1.3 Any harm from developing the site would also need to take into account the fact that part of the site is being promoted as a future housing allocation site. Although only limited weight can be given to the SAMDev, a site, which following adoption of the SAMDev would be approved, would be difficult to refuse prior to the adoption of the SAMDev. Therefore, the harm from the development could only really relate to the extended site. It is officer's opinion that the extended site could not be considered to be visually or environmentally harmful and provides social and economic benefits. The report of the March committee meeting is attached to

this appendix report for information and details, in full, the sustainability assessment for the site.

2.2 Foul Drainage

- 2.2.1 Substantial concern was raised locally about the potential impact of the development on the foul drainage system in the local area. The Parish Council noted it in their objection, raising concerns about the adequacy of the village drainage/ sewerage infrastructure to cope with such a large increase in dwellings, and local representations also questioned capacity. Welsh Water had initially objected to the proposal noting that there are isolated incidents of flooding the public sewerage system downstream of this site which will need to be overcome if development is to proceed. Further assessment of the sewer network, with particular focus on overland flows entering the sewer, would be required to consider the impact of this development on the receiving network. The letter continued to advise that a Hydraulic Modelling Assessment, (HMA), would be required and that, if the Council was minded to approve the application, a Grampian condition should be imposed.
- 2.2.2 Such a condition was therefore proposed to Welsh Water, as detailed in the March report. The condition as worded would have allowed outline consent to be granted for the development but would not have permitted a connection to the existing foul drainage system until capacity was available. Welsh Water supported the proposed condition in principle, subject to the Local Planning Authority acknowledging that the only means of establishing a permanent solution for the disposal of foul drainage (as required by part 1 of the condition) shall be through the undertaking of a HMA and the subsequent implementation of any solution identified by the assessment (as required by part 2 of the condition).
- 2.2.3 Officers remain of the view that the proposed condition would allow for the hydraulic modelling assessment and any upgrades required before occupation of the dwellings but also allow for a temporary system to be provided if the works are not completed and as such accepts that the only means of establishing a permanent solution for the disposal of foul drainage is through the undertaking of a HMA as requested by Welsh Water.
- 2.2.4 Without such a condition and without a consent there is no driver to the upgrading of the foul drainage system. Neither the developer nor the land owner will pay for a HMA without the knowledge that they can develop the site for housing. Welsh Water will not be required to undertake any upgrades unless there are dwellings proposed to be connected to the system. It is unfortunately a “chicken and egg” situation in that without the planning consent there is no reason to undertake the HMA and upgrade but with the consent there is a pressing need to ensure that the dwellings can be connected as soon as possible.
- 2.2.5 Following the March meeting the case officer has contacted Welsh Water for additional advice and the following response has been sent:
“In ideal circumstances we would encourage the completion of a Hydraulic Modelling Assessment in advance of planning being granted as it gives the LPA and the developer certainty. I do, however, appreciate that imposing a condition helps to move the planning process forward.”

The agent contacted me last week to discuss the processes involved in the funding of a modelling assessment. I referred to my letter which stated that in order to progress matters the applicant could engage with Welsh Water at the earliest possible opportunity in order to obtain a quote to undertake a Hydraulic Modelling Assessment (HMA). It is important to note that more often than not a solution can be engineered but the solution would have to be cost effective and of a time period which is favourable to the developer. The agent has not, at this stage, agreed to fund this quote. I will keep you informed if this changes.

This initial process should take approximately a Month (this is subject to resources and the complexity of the assessment). The outcome of this quote will enable us to:

1. Outline the scope of works required within the HMA
2. Indicate the cost estimate of the HMA
3. Specify a programme and time periods for the HMA

It is important to note that this is only the first stage of the process and the developer will then have to fund the Hydraulic Modelling Assessment and any upgrade works which are identified in the HMA.

The solution(s) will only be apparent once a Hydraulic Modelling Assessment has been completed and getting to a stage where a solution has been identified is likely to take at least 8 Months. It is therefore apparent that Members will be faced with the same dilemma in the forthcoming planning committee meetings.

We would want to reassure Members that, if the condition in question is put in place, we would not support the discharge of such a condition until a solution is known and implemented.

If the application is refused then I would be happy to support the Council in the appeal process.

The developer is aware that this initial quote will cost £300 but I have not been able to advise on the cost of the HMA or the upgrading works at this stage. It would also be difficult to advise on how long it would take to complete the actual upgrading.”

- 2.2.6 This recent advice is clear in that there is an ideal position but that the proposed condition would have helped move the process forward. The advice does not suggest that there is not a solution to the existing problems with capacity or with connecting the development to the sewer but that the solution may be costly. This would be a matter for the developer and Welsh Water and the cost of the foul drainage connection is not material to the planning decision. The advice notes that the condition would not be discharged until the solution was implemented.
- 2.2.7 However the advice also notes that Welsh Water would be happy to support the Council in the appeal process if the application is refused.
- 2.2.8 Since the March meeting the agent has also advised that they are:
“looking at the possibilities of providing a sewage treatment plant for the site with the provision of a sewage pumping station and main which could be made live and

connected to the main sewer in Station Road as and when the surcharge problem in that sewer is rectified.

We are awaiting feedback from the Environment Agency as to the suitability of the stream on the southern boundary of the site to receive the final effluent discharge.”

- 2.2.9 The key issue is therefore the risks of a refusal of an outline planning application. Although Welsh Water have advised that they would be willing to support the Council in defending a refusal at appeal any costs claim would be against the Council not against Welsh Water. Costs can be awarded where the Council has behaved unreasonably and this can include “refusing planning permission on a planning ground capable of being dealt with by conditions which it is concluded that suitable conditions would enable the proposed development to go ahead” (National Planning Practice Guidance paragraph 050).
- 2.2.10 As such, although the application could be refused on the grounds of foul drainage, a refusal on these grounds would place the Council at risk of appeal and potentially at risk of a cost award against the Council. Should members continue to be minded to refuse this application on foul drainage grounds officers would advise that the reason reflect the initial advice from Welsh Water in that the proposed development would overload the sewerage network and place at risk health and safety of existing residents and the environment. No improvements are planned within Dwr Cymru Welsh Water’s Capital Investment Programme and any development prior to improvements being made would be premature.

3.0 CONCLUSION

- 3.1 Officers have sought to advise members within this report of the issues raised at the March meeting. Further advice has been taken from Welsh Water to provide members with evidence on the foul drainage issue raised and further detail has been provided on the SAMDev and sustainability of the development. It is officers opinion that refusal on the grounds of non-compliance with the SAMDev would not be a defensible reason for refusal of the application and that the foul drainage can be dealt with by condition. As such, the officer’s recommendation to the March meeting remains, this is subject to the applicants entering into a S106 legal agreement in order to secure affordable housing, and subject to conditions, planning permission should be granted.
- 3.2 The site is located outside the current development boundary for Weston Rhyn and is therefore classed as a departure from the development plan. However, part of the site is being promoted as a proposed site allocation for housing development in the forthcoming Site Allocations and Management of Development (SAMDev) Plan and it is therefore accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the village and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.
- 3.3 The size of the site and constraints from the existing development, watercourse

and village recreation field limits the developable area, however in principle the site can be developed for housing without adversely affecting the amenities of the existing properties, in context with the surrounding built form and with an appropriate access. Furthermore, subject to a hydraulic modelling assessment, the site can be provided with satisfactory foul and surface water drainage arrangements, to which it is considered will not be harmful to local habitats or biodiversity and public open space will be provided which also improves the accessibility and the landscaping of the area.

- 3.4 Accordingly, subject to conditions and the applicant entering into a S106 legal agreement to secure affordable housing, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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 - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

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 1970.

9.0 **FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. **BACKGROUND**

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
CS7 - Communications and Transport
CS9 - Infrastructure Contributions

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 David Lloyd MBE Cllr Robert Macey
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Approval of the details of the scale, siting, external appearance of the development and the access details and landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. This permission does not purport to grant consent for the layout shown on the deposited plan submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

- The number of units
- The means of enclosure of the site
- The levels of the site
- The means of access for disabled people
- The surface water drainage scheme of the site
- The finished floor levels

Reason: To ensure the development is of an appropriate standard.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. 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 dwelling hereby approved shall be occupied until:
 - 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and
 - 2) The appropriate permanent or temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

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

8. Prior to the first occupation of the dwellings details of five woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

Reason: To ensure the provision of nesting opportunities for wild birds

9. Prior to the erection of any external lighting which would illuminate trees and hedgerows 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.

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

10. The proposed development site is crossed by a 450mm surface water with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its

apparatus at all times. No part of the building will be permitted within 5 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

11. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

12. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

13. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

14. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

15. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.



Committee and Date

North Planning Committee

12 May 2015

Item

6

Public

Development Management Report

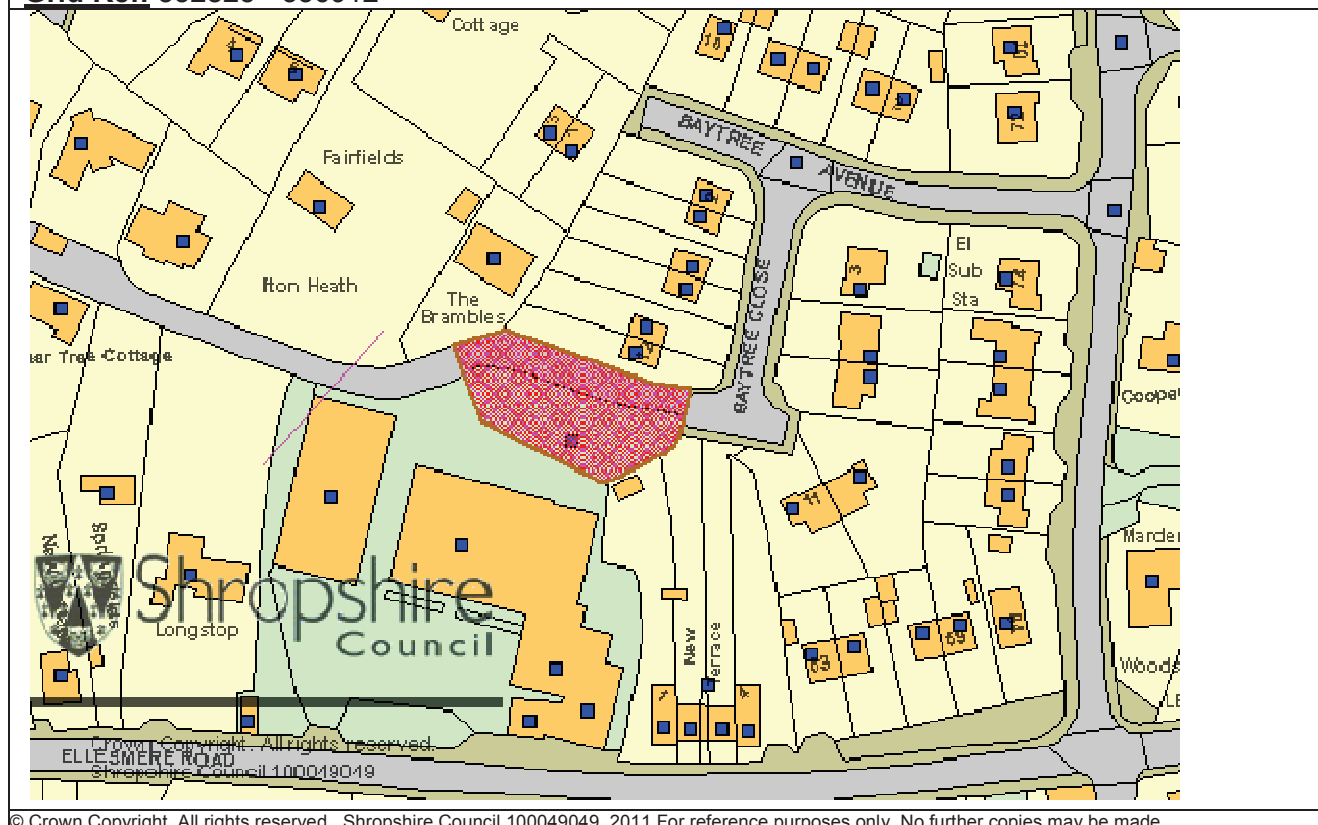
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04980/FUL	Parish: St Martins
Proposal: Erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme)	
Site Address: Residential Development Land West Of Baytree Close St Martins	
Applicant: Mr K Butterton	
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk

Grid Ref: 332825 - 336912



Recommendation:- That delegated powers be given to the Area Planning Manager to grant approval, subject to the applicants entering into a S106 agreement to secure affordable housing and subject to the conditions set out in Appendix 1, following resolution of the outstanding noise issues.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal involves the erection of 3 no. 3 bedroom dwellings (one detached and one pair of semi-detached) and formation of vehicular access off Baytree Close and associated parking.
- 1.2 The application is a revised scheme following on from a previous application on the site (12/03763/FUL), which was refused planning permission in February 2014 on the grounds of overdevelopment and specifically lack of adequate amenity space.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposal relates to a small area of vacant land last used as a domestic garden and is for the construction of 3 dwellings to include one detached unit and a semi-detached pair.
- 2.2 Access to the site is provided off a cul de sac, Baytree Close, an adopted highway serving an existing housing estate. The site partially backs onto the Walker Engineering site to the south which is accessed off the Ellesmere Road but is surrounded on all other sides by residential development.
- 2.3 This includes 20th century semi detached dwellings along Baytree Close to the north and west and large detached dwellings to the west. Long, narrow garden plots to the rear of terraced housing along the Ellesmere Road back onto the east end of the site.
- 2.4 A line of trees, hedgerow and fence panels provide the boundary between the rear of the site and the Walker Engineering site. All other boundaries to the site are open.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Following an objection from the Parish Council the ward member has requested that the application is considered by planning committee. This request has been confirmed as being relevant by the Chair and Vice Chair of the committee and it was agreed that the issues raised should be debated at committee

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Drainage** – No objection subject to inclusion of condition.
- 4.1.2 **SC Affordable Housing** – No objection. The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of

the SPD Type and Affordability of Housing.

4.1.3 **SC Highways** – no objection to the granting of consent subject to conditions and informatives relating to access, parking and the need for a license to work on the highway.

4.1.6 **SC Public Protection** – noise assessment specifications and locations of related information are requested prior to a decision being made on the application on account of existing industrial type operations to the south.

4.1.7 **SC Ecology** – No objection subject to conditions and informatives relating to nesting wild birds,

4.2 - Public Comments

4.2.1 **St Martins Parish Council** – neither object or support but are concerned over the surface water drainage in this area and three dwellings would be an over development of this site. In addition no development should be considered or approved from a private driveway but from an adopted road with street lighting to an LED standard.

5.0 THE MAIN ISSUES

- Principle of Development
- Siting, Scale and Design
- Impact on Amenity
- Drainage
- Highways Issues
- Public Protection
- Affordable Housing

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 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. The development plan for Shropshire is the Council's Adopted Core Strategy, the 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and 'saved' policies from the preceding local plans; in this case, the Oswestry Local Plan. The Council has produced a Site Allocations and Management of Development Plan (SAMDev) which is currently under consideration by the Planning Inspectorate. Since the adoption of the Council's Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given significant weight in the determination of planning applications.

6.1.2 Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies

(the less significant the unresolved objections, the greater the weight that may be given); and

- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

6.1.3 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case.

6.1.4 There are currently three major policy considerations in the assessment of planning applications for housing:

- Five year housing land supply/housing supply.
- Weight to relevant policies in emerging Plan
- NPPF presumption in favour of sustainable development/boosting housing supply

6.1.5 1. Five year housing land supply/housing supply

6.1.6 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July 2014, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any 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 the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF paragraph 49 and these provide the starting point for considering planning applications.

6.1.7 2. Weight to relevant policies in emerging Plan

6.1.8 The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.1.9 The Shropshire Core Strategy was adopted on the 31st March 2011 and is in this context considered up-to-date.

6.1.10 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people.

- 6.1.11 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen.
- 6.1.12 St Martins is classed as a 'larger settlement' under 'saved' policy H5 of the Oswestry Local Plan and has a clear development boundary; wherein development is permitted on allocated sites, on sites with planning permission and on other suitable windfall sites within the development boundary. In the emerging policy SAMDev (Revised Preferred Options), St Martin's has been put forward as a Community Hub and again has a clear development boundary which would be included as part of the development boundary should they be adopted. No other amendments to the existing development boundary are proposed. The development site lies within this boundary.
- 6.1.13 The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan version has not been through the examination stage, the weight has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications.
- 6.1.14 On the basis of Policy CS4 and the site's location within the settlement boundary planning permission for the proposed new dwellings would be deemed acceptable in principle.
- 6.1.15 3. NPPF presumption in favour of sustainable development/boosting housing supply
- 6.1.16 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to 'boost significantly the supply of housing', with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 6.1.17 In view of its location within a larger settlement which offers a wide range of services and facilities and access to larger settlements such as Oswestry and Ellesmere the site is deemed to be sufficiently sustainable to meet the overriding aims of the NPPF.
- 6.1.18 Policy CS6 (Sustainable Design and Development Principles) of the adopted Core Strategy is also relevant to this application. This seeks to ensure that development is designed to a high quality using sustainable design principles. Proposals are required to be appropriate in scale, density, pattern and design taking into account the local context and character, having regard to national and local design guidance. The policy aims to ensure the safeguarding of residential and local amenity.
- 6.1.19 Policy CS11 (Type and Affordability of Housing) is also considered to apply and

requires an integrated and balanced approach to be taken with regard to existing and new housing, including type, size, tenure and affordability. Housing developments should be designed to be capable of adaptation to accommodate lifestyle changes, including the needs of the elderly and people with disabilities. All new open market housing is required to make contributions to the provision of local needs affordable housing and the Council's Affordable Housing team have confirmed that the proposal would be liable for a contribution at a rate of 10% should the application be approved.

6.2 **Siting, Scale and Design**

- 6.2.1 The site is located alongside the access road leading between Baytree Close and a group of more recently constructed detached dwellings located to the north west.
- 6.2.2 The proposal involves the erection of 3 no. three bedroom residential units (one detached and one pair of semi-detached) with off street parking facilities. The semi-detached pair (units 2 and 3) are located towards the western end of the site; the single detached unit (unit 1) to the east.
- 6.2.3 The dwellings are all orientated with their north east elevations facing the road and are all one and a half storey in height with dormer windows at eaves level. Open car bays with bedrooms above are included at either end of the semi-detached units and to the eastern end of the single unit. These are lower in ridge height than the main dwellings and set back within the gables.
- 6.2.4 Proposed materials are to include facing brick (Ibstock Cheshire weathered), slate/tile roof or Marley eternity and UPVC windows and doors.
- 6.2.5 It is explained that sustainable design principles are proposed to be incorporated into the development's design and construction to include south facing rear gardens, locally sourced materials, high levels of insulation, background ventilation and double glazing.
- 6.2.6 Rear gardens are to be laid to lawn and sub-divided by way of 1.6m timber closed board fencing. Front garden areas adjacent to driveway hard standings are similarly proposed to be laid to lawn whilst landscaped areas are shown to be provided for driveways, sheds, greenhouses and general bin storage.
- 6.2.6 A total of 2 car parking spaces are to be provided per dwelling and 1 cycle space for each.
- 6.2.7 The application is an amendment to a previously refused scheme for 3 terraced style dwellings (12/03763/FUL) which was refused planning permission on the grounds of overdevelopment. The amended application follows on from discussions between officers and the applicant and the subsequent submitted scheme now indicates a reduction in the scale of the dwellings, a greater degree of visual separation between the units and the creation of larger areas of more useable amenity space around each dwelling. This has been in part achieved through the repositioning of the proposed units on the plot.
- 6.2.8 Unit 1 has been relocated slightly further forward on the site, in order to increase the amount of amenity space to the rear, whilst allowing for a small area of

separation between the dwelling and the access road.

6.2.9 The submitted plan also shows units 2 and 3 as being moved slightly further to the west of the site thereby allowing for more useable space around the buildings and in turn helping to minimise the overall visual bulk of development on the site.

6.2.10 Given the above amendments officers are of the opinion that the revised scheme is acceptable in its scale, layout and general design.

6.3 **Impact on Amenity**

6.3.1 The proposed dwellings have been designed to have a generally front to back aspect with no openings within the side elevations other than a side entrance door to unit 2 which opens into its attached car port. The nearest affected neighbouring residential properties are located on the other side of the access road, The Brambles and no 12. These properties have their principle elevations and windows angled facing away from the application site.

6.3.2 The properties either side are located some distance away with 1 New Terrace being located close to the Ellesmere road to the south and separated by way of a long rear garden and Longstop to the west buffered by the large industrial site also on Ellesmere Road.

6.3.3 The proposal is deemed unlikely to present any significant loss of amenity to surrounding dwellings and following amendments to the layout all of the proposed units are considered to include a reasonable amount of private amenity space.

6.3.4 Therefore, officers are of the view that it would be difficult to sustain an objection on the grounds of amenity.

6.4 **Drainage**

6.4.1 The Parish Council have expressed concerns regarding matters of surface drainage on the site. The Council's drainage team were consulted for their views and have confirmed that the drainage strategy and design, as previously agreed under the previous application (12/03763/FUL) is acceptable whereby 19.75 litres/second will discharge from Plots 1 to 5, referring also to existing residential development along Baytree Close. The current application for 3 houses in Plot 1, does not increase the 19.75 l/s discharge by installing 28 cubic metres of attenuation. Section 1.3 of the submitted Surface Water Disposal Report states that discharge from the development is presently un-restricted. Confirmation is required when discharge will be restricted to 19.75 l/s and the Drainage Engineer has indicated that this issue could be dealt with by way of a condition attached to any planning consent.

6.5 **Highways**

6.5.1 The Council's Highways team were consulted on the proposals and raised no objection to the granting of consent subject to conditions and informatives relating to access, parking and the need for a license to work on the highway.

6.5.2 It was commented that the development seeks access to serve three further properties off the adopted turning head by increasing the width of an initial section of the private drive serving the existing properties. In terms of the traffic

experienced at this point in terms of flow and speeds, these are both likely to be low. The initial widened section of the private road will also allow vehicles of the properties to pass one another clear of the turning head. It was considered that the proposal was unlikely to result in adverse highway implications at this point to warrant a highway objection and no objection has been raised to the principle of the proposal.

6.5.3 The proposed access layout, drive and parking provision are deemed to be acceptable and in accordance with earlier approved/agreed details submitted in connection with the earlier application, 12/03763/FUL.

6.5.4 Initial comments from the Highways team noted that the proposed parking provision for plot 1 had been moved too far forward not maintaining a clear isle width of 6 metres and it was recommended that the spaces should therefore be altered and moved 1.5 metres back further into the curtilage of the plot. An amended plan has now been received which satisfactorily addresses this issue and has been approved by the Highways Officer.

6.6 **Public Protection**

6.6.1 The Council's Public Protection Officer has commented on the proposals as follows:

6.6.2 The proposed site is bounded to the south by industrial type operations. As a result there is the possibility for noise and odour to impact on future residents. It would be unfair to expect the businesses to change to accommodate future residents moving closer to them. As a result it is recommended that the applicant proposes mechanical ventilation and a high specification of double glazing to ensure that the future residents will not be affected by unsuitable noise inside their dwellings. Garden areas should be protected by suitable close boarded fencing to allow external areas to be used without noise being detrimental to health and wellbeing. It is requested that specifications and locations of the above information, e.g. position of fencing on a map, are submitted for approval prior to a decision on this application. Alternatively a noise assessment could be provided taking noise measurements of background noise in order to ascertain what measures are appropriate in this circumstance.

6.6.3 The above requirement had not been satisfied at the time of the committee report being finalised and any update on this issue will be reported at the committee meeting.

6.7 **Affordable Housing**

6.7.1 Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').

6.7.2 Given the above, it is recommended that planning permission be granted only

subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

7.1 The site is located within the settlement of St Martins which has been identified as a Community Hub within the emerging SAMDev as being suitable for sustainable infill development within the development boundary. It is also located within the existing St Martins settlement boundary as contained within the Oswestry Borough Local Plan.

7.1.1 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and not to have any adverse implications relating to environmental issues or highways safety matters. Furthermore the proposed scale, layout and design is deemed to be acceptable in this location.

7.1.2 The proposal is therefore considered to generally accord with the relevant policy provisions set down within the NPPF and adopted Core Strategy and it is recommended that Committee grants delegated powers to approve the application subject to the receipt of satisfactory details in relation to noise abatement.

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

National Planning Policy Framework

Shropshire Core Strategy

CS4 - Community Hubs and Community Clusters

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Oswestry Saved Policies

H5 - Larger Settlements

Relevant planning history:

12/03763/FUL Erection of 3 terrace style dwellings, formation of vehicular access off Baytree Close and associated parking REFUSE 21st February 2014

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 Steven Davenport

Appendices
APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised block plan (1210.82.02 received on 25th March 2015).

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. The drainage strategy and design, as previously agreed under the previous application 12/03763/FUL is acceptable whereby 19.75 litres / second will discharge from Plots 1 to 5. This application, 14/04980/FUL, for the 3 houses in Plot 1, does not increase the 19.75 l/s discharge by installing 28 cubic metres of attenuation. Section 1.3 of the submitted Surface Water Disposal Report states that discharge from the development is presently un-restricted. Confirmation is required in writing to the Local Planning Authority prior to development commencing on site when discharge will be restricted to 19.75 l/s.

Reason: To safeguard against flooding on the site.

4. A total of 2 'woodcrete' (or equivalent) artificial nests suitable for small birds such as robin (x1) and sparrow (x1) and shall be erected on or immediately adjacent to the site prior to commencement of the development hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

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

5. The access amendments and private drive alterations shall be satisfactorily completed in accordance with the approved plan 1210.82.02 prior to any of the dwellings being first occupied.

Reason: In the interests of highway safety.

6. The development hereby permitted shall not be brought into use until the car parking spaces for plots 1 and 3 shown on the approved plan 1210.82.02 and amended for plot

1 have been satisfactory laid out and constructed in accordance with approved details; and the parking spaces thereafter shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles, associated with the development, off the highway in the interests of highway safety.

This page is intentionally left blank



Committee and Date
 North Planning Committee
 12 May 2015

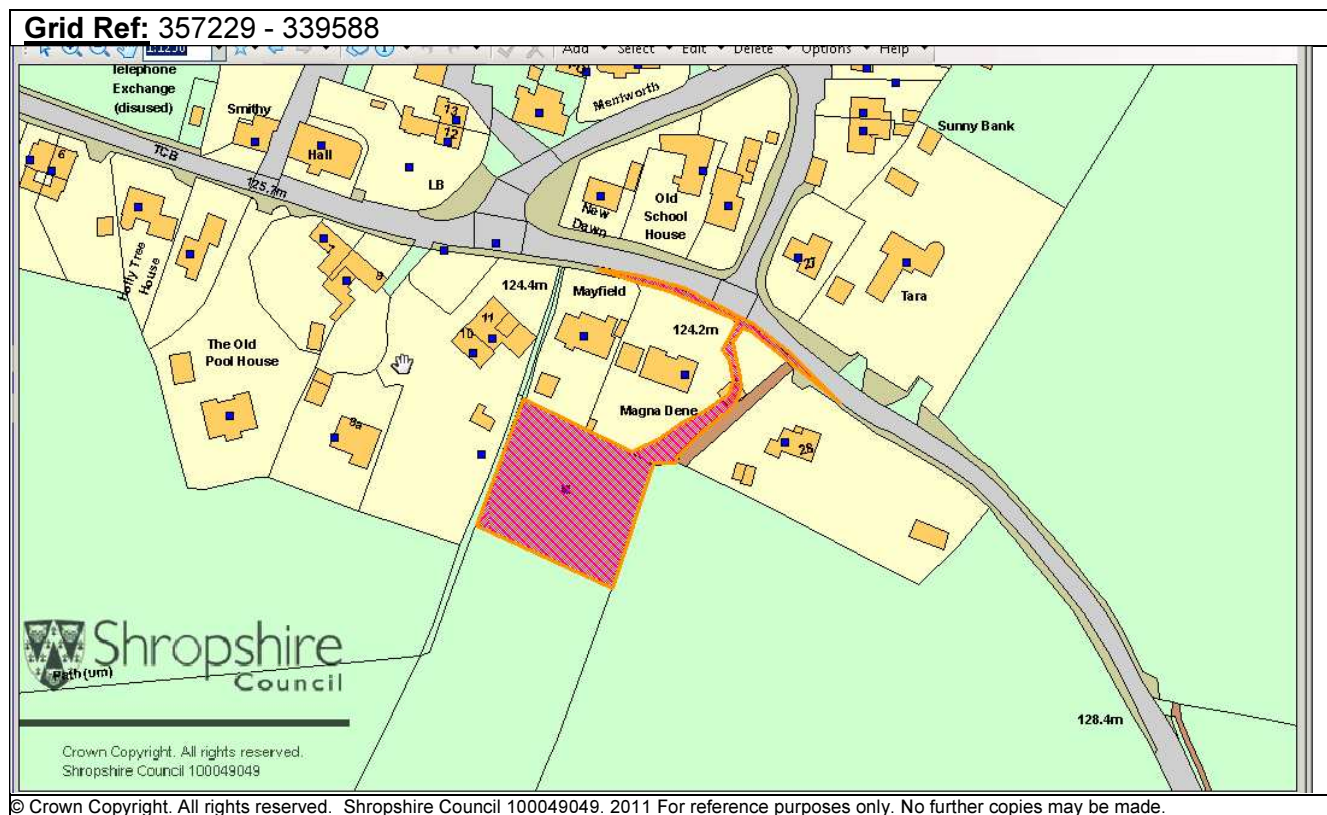
Item
7
 Public

Development Management Report

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

Summary of Application

Application Number: 14/05017/OUT	Parish: Whitchurch Rural
Proposal: Outline application (access for approval) for the erection of one dwelling	
Site Address: Development Land South Of Magna Dene Ash Magna Whitchurch Shropshire	
Applicant: Mr W Hilton	
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to the applicants entering into a S106 agreement to secure affordable housing.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for the erection of one dwelling on land to the south of Magna Dene. The proposed access arrangements are for consideration at this stage with all other matters to be dealt with as reserved matters
- 1.2 During the course of the application the proposal has been amended. This includes the reduction of the number of dwellings to one and the proposed access arrangements have been amended to overcome the concerns raised by local residents, Parish Council and the Highways Development Control Officer.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is an area of land located at the rear of Magna Dene and Mayfield and to the east of a new dwelling erected at the rear of 10 Ash Magna. The area is currently identified as agricultural land with a public footpath located to the west of the site. Two previous planning applications in 2005 and 2006 for change of use of this land to residential use were refused.
- 2.2 The pattern of development within Ash Magna is predominantly road frontage dwellings. However, there are exceptions to this including along Church Road and to the west of the application site. The proposed development of this land would be similar to that of the dwellings adjoining the site where they are behind existing road frontage properties.
- 2.3 The land that is the subject of the application is identified in the North Shropshire Local Plan as being in an area of open countryside. However the existing development boundary for Ash Magna follows the line of two sides of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme complies with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution.

Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:

- (i) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
- (ii) the Area Manager or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee

In this case although amended plans have been received they continue to object to the proposed development on the basis of the cumulative impact of the number of dwellings being approved in the village, the ability of the infrastructure to

support the number of dwellings, the access was unacceptable and the detrimental impact of the dwelling on the Jubilee Walk.

However, although these comments are noted by Officers, it is considered that most of these issues can be overcome and as such planning permission should be granted.

The Case Officer has spoken to Cllr Dakin as the Local Member and Cllr Wynn as Vice Chair of the Planning Committee regarding the matter. It was agreed that the application should be presented to the Planning Committee to discuss the material planning considerations that have been raised.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

4.1 Consultee Comments

- 4.1.1 Affordable Housing Officer:** In accordance with policy CS11 open market residential development will require a contribution to affordable housing. The applicant will be required to enter into a S106 Legal Agreement to ensure the appropriate payment is made.
- 4.1.2 Highways Development Control Officer:** No objection is raised to the granting of outline consent subject to the inclusion of the recommended conditions.
- 4.1.3 Ecology:** No objection subject to the inclusion of the recommended informatives and conditions.
- 4.1.4 Drainage:** No objection however additional information would be required at the reserved matters stage should outline planning permission be granted.
- 4.1.5 Rights of Way:** No objection subject to the developer ensuring the right of way is protected at all times both during and after the development.
- 4.1.6 Whitchurch Rural Parish Council:** oppose the development because it is contrary to Shropshire's Core Strategy in the following respects viz:-

The Parish Council discussed the proposed amendments to the scheme and noted that the Parish has now fulfilled the SAMDev quota for Ash. Councillors discussed the amendment from 2 to 1 dwellings and agreed that it makes no difference and that access concerns remain. Councillors raised objections to the demand from the Agent for a delegated decision. The Council members queried the proposed siting of the proposed dwelling at the start of the Jubilee Walk footpath and agreed that this undesirable. The Councillors raised and reconfirmed concerns about cumulative impact of additional dwellings and the current infrastructure being unable to support additional dwellings; Contrary to CS5; Detrimental impact on the village if the SAMDev allocation is ignored and further development is permitted; concerns of precedent being set. The Council members agreed to maintain strong objection to any development on this site and requested that the Local Member call in this application for decision by Planning Committee and hope that Localism will be adhered to and local views considered.

4.1.7 **Ramblers:** The proposal should not affect the existing public right of way.

4.2 **Public Comments**

4.2.1 Eight letters of representation have been received in connection with the application. The areas of concern relate to:

- Inaccuracies in the supporting information stating that the land is not agricultural use.
- The development will be outside the development boundary for the village and result in a loss of agricultural land
- This site was not a preferred site within the SAMDev consultations.
- The new housing will exceed the figures for delivery as part of SAMDev and would therefore be over development.
- There are more appropriate sites within the village for development.
- This is not a “natural rounding off” plot but will encourage more such development in the village if it is allowed.
- Affordable dwellings would be preferred as these are needed in the village
- If approved this would set a precedent for further development in the village.
- The new access will cause problems along an already dangerous stretch of highway.
- Condition 4 recommended by the Highways Development Control Officer is considered to be unenforceable.
- Extra traffic using the highway has increased the highway hazards
- The proposed visibility is inadequate.
- Drainage is an issue in this area.
- The dwellings would cause a loss of privacy to adjacent properties.
- The site is adjacent to the Jubilee Walk and as such the development will restrict views from it.

The development would have an adverse visual impact on the character and distinctiveness of the local landscape.

Proposal does not comply with policy CS5.

The pattern of development would not be linear like the remainder of the village.

The development would be visible from the highway.

The proposed layout of the site has changed with no consideration for the impact on the residential amenities of neighbouring properties.

The boundary treatment to the north of the site would need to be considered as a hedge or fence would reduce light to the neighbouring property

5.0 **THE MAIN ISSUES**

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Ecology
- Drainage

6.0 OFFICER APPRAISAL**6.1 Policy & Principle of Development**

6.1.1 Objections have been received from Local Residents and the Parish Council to the proposal on the basis that the site is in an area of open countryside outside the existing and proposed development boundary for Ash Magna. As there have been a number of recent approvals for dwellings in the cluster the number of dwellings has already been reached. Therefore the proposal should be refused as being contrary to policies CS4 and CS5.

6.1.2 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.

6.1.3 Paragraph 14 of the NPPF states that:

‘at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking’

and that for decision making this means:

‘approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole’

NPPF Paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The council published a revised 5 year land supply statement in August 2014 which demonstrates that the Council now considers that it has a 5 year supply of housing.

6.1.4 Even though the Council has a 5 year housing land supply prior to adoption of SAMDev the balance of material consideration is still in favour of boosting housing supply in locations that are considered to be sustainable and/or those locations that are being promoted by the Parish as a Community Hub or Community Cluster within the emerging SAMDev DPD or are located within the development boundary under saved local plan policies. Consequently in the balance of considerations the key issues in determining this application are:

- Whether the proposal accords with adopted and emerging local plan policy and
- Whether the proposal represents sustainable development (an assessment of the benefits and harm).

6.1.5 The relevant adopted Local Plan for Ash Magna is the North Shropshire District

Council (NSDC) Local Plan and the Shropshire Core Strategy. The site is outside the development boundary for Ash Magna on the proposals map of the NSDC local plan and it is not an allocated site under saved NSDC policy H4 and is therefore classed as countryside. The relevant Core Strategy policy that relates to development in the countryside is CS5 which seeks to control development such that only limited types of development, such as accommodation for essential countryside workers and other affordable housing, is permitted. Core strategy policy CS4 outlines that development, which amongst other things, provides housing for local needs and that is of a scale appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD and not allowing development outside these settlements unless it meets policy CS5. The explanation within CS4 states that *'Shropshire Council is adopting a "bottom up" approach, whereby it works with communities at the parish and village level in together undertaking an intelligent analysis of the nature of their local community and how their village functions, and how it can be improved'* and that *'a key consideration in identifying Community Hubs and Community Clusters is the views of the local community regarding whether they wish to put themselves forward for this status, whether singly or as a part of a networked group of settlements'*. Following extensive consultation the community and the Parish Council have put the settlement of Ash Magna forward and as part of a Cluster settlement. As the site is located outside the proposed development boundary for Ash Magna, the development of the proposed site would therefore be contrary to both adopted and emerging policy

- 6.1.6 Whilst the Agent has claimed that the land has been used as part of the garden to Magna Dene, some of the supporting information has been withdrawn. In addition the comments from local residents indicates that this is not the case and there is no record in the planning history of the site that indicates that the use of the land for domestic use has been approved. However, whether the land has been used for domestic or agricultural purposes is not material in the consideration of this application.
- 6.1.7 In the intervening period between submission and adoption of the SAMDev, 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.
- 6.1.8 **Is the Development Sustainable** The sustainability of a site is not judged purely on its location, or on whether it is deliverable. The fact that the site is deliverable and available is a positive in its favour. However, the suitability of a site in terms of its sustainability needs to be considered against the NPPF as a whole and the

policies within the Core Strategy Paragraph 6 of the NPPF advises that paragraphs 18 to 219 constitute sustainable development.

- 6.1.9 Paragraph 55 of the NPPF promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. The example given is where there are groups of smaller settlements and a development in one of these may support the services in others nearby. However dwellings in isolated locations should be avoided
- 6.1.10 Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:
- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
 - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
 - *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

The SAMDev Plan is considered to be at an advanced stage of preparation having undergone significant public consultation and has been submitted to the Secretary of State for its examination. It is therefore considered that even though there are some objections to it that some weight can now be given to SAMDev and the wishes and aspirations of the community that have chosen Ash Magna as part of a Cluster settlement.

- 6.1.11 This land is shown to be adjacent to the settlement of Ash Magna on Ordnance Survey maps. Whilst there are some hedges defining the boundary these would not be considered sufficient to screen the proposed development from the wider public realm. In particular the adjacent public right of way and the highway when approached from the East which is a concern raised by local residents and the Parish Council.
- 6.1.12 Officers agree that the proposal is located on land designated as open countryside. However this is adjacent to the existing development boundary for the village of Ash Magna with dwellings to the north and west of the site. Therefore any development of this land would be closely related to existing dwellings and the potential for visual intrusion would be lessened. Furthermore while the development may not be linear to the road as stated by the Parish Council and residents, there are dwellings within the village and adjacent to the site that have been similarly positioned behind road frontage dwellings. As such the proposal is one that would be considered to meet the requirements of the NPPF when read as a whole and this proposal would not lead to a sporadic form of development in the open countryside.
- 6.1.13 **Economic Consideration** Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system.

- 6.1.14 However ‘sustainable development’ isn’t solely about accessibility and proximity to essential services but the NPPF states that it is ‘about positive growth – making economic, environmental and social progress for this and future generations’. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:
- *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
 - *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
 - *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*
- 6.1.15 It is acknowledged that there are economic benefits of new house building in providing housing in close proximity to the settlement and that it is located relatively close to other settlements where potential employment opportunities exist. Whilst it may be necessary to drive to some of these locations this does not necessarily preclude them from consideration as most rural settlements in Shropshire require access to other areas by vehicle.
- 6.1.16 As detailed in Paragraph 55 of the NPPF the benefit to nearby services can also be taken into consideration and as further development would contribute to the vitality and viability of these facilities in the area this aspect also has to be considered.
- 6.1.17 Taking the above in to consideration it is noted that there may be potential benefits to the economy of the area and nearby settlements however this is likely to be limited and as such limited weight can be given to economic aspect of the proposal.
- 6.1.18 **Social Considerations** The development of the site would increase the population of the settlement. The village contains a number of community facilities such as village hall, church, public house and tennis/bowling facilities all within walking distance of the site. In addition the close proximity of Ash Magna to Whitchurch will allow future occupiers access to other facilities, services and employment. Whilst this may rely on occupiers using private transport this is not a reason to recommend refusal as has been identified in appeal decisions. The development may provide an Affordable Housing Contribution that would assist in the provision of much needed affordable dwellings in the area although this would

be relatively small towards the overall cost of such a dwelling. As with the economic benefits this is an accepted benefit of house building. As such Officers consider that the benefit of the social aspects would outweigh the harm that could be caused.

- 6.1.19 **Environmental Considerations** The site is currently authorised for use as agricultural land. It is stated within the application that the site has been used for domestic purposes in excess of 10 years. However a statement supporting this has been withdrawn and the information has been contested by local residents. Local residents and the Parish Council have raised concerns that the proposed development will have a detrimental impact on the environment of the area. This is in terms of: the pattern of development being out of keeping with the character of the area; and the visual impact of the development particularly from the Public Right of Way. From the planning history for the site two previous applications to change the use of the land have been previously refused, one in 2005 and one in 2006. Therefore for the purposes of this application the assessment has been made based on the agricultural use of the land.
- 6.1.20 The site is grade 3 agricultural land, and has no heritage, cultural or ecological designation. It is considered that the loss of this piece of agricultural land for agricultural purposes would not be significant. It is appreciated that the site is close to other dwellings, and whilst the proposed new dwelling would be visible in the landscape, its closeness to other dwellings will lessen the visual impact. The Agent has stated that the development of this site would act as a “rounding off” of the development to the village. This is an understandable statement given that it is surrounded on two sides by not only other development but also the existing and proposed development boundary. The opposition to this statement is also appreciated however, the comments of setting a precedent is not the case as every application is assessed on its own merits against adopted National and Local Policy as detailed in para 6.1.2 above.
- 6.1.21 On balance whilst there is the potential for the development to be of harm to certain aspects the potential benefits also have to be considered. Whilst the development would be visible in the landscape the close proximity of other dwellings would minimise any potential impact. In addition any future design would also need to be sensitive to minimise further its impact. The provision of affordable housing contribution, the potential economic and social benefits also would be of benefit not only to the village but also other settlements in the area. Overall officers consider that the proposal would represent sustainable development and whilst contrary to adopted and emerging local policies it will be in accordance with National policy
- 6.2 **Design, Scale and Character**
- 6.2.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 ‘Requiring Good Design’ of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

- 6.2.2 In this instance the application is for outline planning permission where only the access is being approved at this stage. The matters of scale, layout and appearance are all matters that are to be dealt with at the later reserved matters stage. Therefore no details of the proposed dwellings have been provided with this application.
- 6.2.3 In view of the above the objections raised regarding layout, design and boundary treatments cannot be considered as part of this application.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 Concerns have been expressed by local residents that the proposed development would cause a loss of privacy to neighbouring properties.
- 6.3.3 The proposed layout and design of the dwellings is not to be determined as part of the outline planning application, although an indicative layout plan has been submitted. This layout plan does indicate that there is scope for a scheme to be developed on the site allowing the proposed dwelling with adequate amenity space and separation from neighbouring properties. In addition the proposed design and floor layouts of the dwelling would also be arranged to minimise any potential loss of light or privacy. However as described above these matters would be dealt with as part of the reserved matters application.
- 6.4 **Highways**
- 6.4.1 Concerns have been expressed by local residents and the Parish Council that the proposed access will exacerbate existing highway problems in this location. This is in terms of lack of visibility from the access and also the traffic levels currently experienced along this stretch of highway. As such the objectors consider that the proposal will have a significant impact on highway safety. A further comment has been made that one of the conditions recommended by the Highways Development Control Officer is unenforceable.
- 6.4.2 The amended site plan sets out an alteration to the access arrangements in order to overcome the objections raised by the Highways Development Control Officer. The plans now show the visibility splays that would be achieved and the Highways Development Control Officer has raised no objection to these as they are in accordance with the accepted standards.
- 6.4.3 With regard to the recommended conditions concerns have been raised regarding the proposed condition regarding parking and turning of vehicles. This is a condition that is frequently used and is not considered to be an issue with its enforceability. However, having assessed the plot and the proposed access arrangements it is considered by Officers to be unreasonable and therefore would not be recommended for inclusion on any planning permission that may be granted.
- 6.4.4 Overall as the Council's Highways Development Control is satisfied with the amendment to the access and raises no objection to the proposal, Officers

consider that the proposal is acceptable.

6.11 **Ecology**

- 6.11.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Therefore the application has been considered by the Council's Ecologist.
- 6.11.2 An Environmental Survey has been provided with the application and this has been assessed by the Council's Ecologist. No objection to the proposal has been raised provided the recommended conditions and informatives are included on any planning permission that may be granted. This will ensure the future protection of statutorily protected species and habitats.
- 6.11.3 In view of the above it is considered by Officers that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.

6.12 **Drainage**

- 6.12.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.12.2 No objection to the proposed development has been raised by the Council's Drainage Engineer with regard to the scheme. However, additional information will need to be submitted with the reserved matters application to ensure that an appropriate scheme is designed.
- 6.12.3 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

7.0 **CONCLUSION**

- 7.1 On balance whilst the concerns and objections to the proposal are acknowledged, there is a requirement for the application to be considered against the requirements of the NPPF. This has a presumption in favour of sustainable development and an assessment has been carried out in accordance with the NPPF criteria. From the information above it is the opinion of Officers that the proposal meets the criteria and therefore the NPPF. Issues relating to design and impact on residential amenities will be considered in more detail as part of a reserved matters application however it is considered that the site.

Overall it is considered that the proposal is in accordance with the NPPF and policies CS4, CS5, CS6, CS11, CS17 and CS18 of the Shropshire Core Strategy.

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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 - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose 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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

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 1970.

9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. BackgroundRelevant Planning Policies

National Planning Policy Framework

CS4 - Community Hubs and Community Clusters

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

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 Gerald Dakin
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Details of the appearance, layout, scale and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of twelve months from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The means of enclosure of the site. The southern boundary of the proposed development will be made up of a native species hedgerow as recommended in the Greenscape Environment Ltd (October 2014) Phase 1 Environmental Survey – Land to the rear of Magna Dene, Ash magna, Whitchurch, SY13 4DR.
 - The levels of the site
 - The means of access for disabled people
 - The drainage of the site
 - The finished floor levels

Reason: To ensure the development is of an appropriate standard.

5. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

6. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.

7. Work shall be carried out strictly in accordance with the recommendations for risk avoidance measures included within the report by Greenscape Environment Ltd (October 2014) Phase 1 Environmental Survey - Land to the rear of Magna Dene, Ash Magna, Whitchurch, SY13 4DR.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

8. Notwithstanding the details shown on drawing number W14/2349/01 Rev A received on 18th February 2015 the approval is for the access arrangements only.

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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

9. The alterations to the access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

10. The visibility splays shown on drawing no. W14/2349/01 Rev A shall be provided at the access point extending both directions from the access along the highway. All growths and structures in front of these lines shall be lowered to and maintained at a height not exceeding 0.9 metre above the level of the adjoining highway carriageway and shall be fully implemented prior to the dwelling being first occupied.

Reason: To provide a measure of visibility from the access in both directions along the highway in the interests of highway safety.

11. The access shall be satisfactorily completed and laid out in accordance with the approved amended block plan drawing W14/2349/01 Rev A prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

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

12. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

This page is intentionally left blank



Committee and Date
 North Planning Committee
 12 May 2015

Item
8
 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: 15/00725/FUL	Parish: Kinnerley
Proposal: Erection of single storey front extension	
Site Address: Barn Brookside Caravan Park Kinnerley Oswestry Shropshire	
Applicant: Mr John Finney	
Case Officer: Eleanor Moss	email: planningdmnw@shropshire.gov.uk

Grid Ref: 333878 - 319723



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

Recommendation:- Refuse for the following reasons

Recommended Reason for refusal

1. It is considered that the proposed extension is not of an appropriate design and scale. As such, they would have a detrimental impact on the agricultural character, appearance and form of the barn. Accordingly the scheme fails to comply with policies H23 of Local Plan, CS6, CS17 of the Core Strategy and Type and Affordability of Housing SPD.

2. The proposed extension to this residential barn conversion is not considered to meet the criteria of Core Strategy Policies CS6 and CS17. It is considered to inappropriate in pattern and design and would introduce an element which is unsympathetic and alien to this traditional converted barn, adversely affecting its character and appearance.

REPORT**1.0 THE PROPOSAL**

1.1 This application seeks planning permission for the erection of a single storey front extension to a single storey barn conversion which was permitted under application 08/15378/FUL.

1.2 The proposed extension measures 64.6sqm in total and this includes a brick 'link' extension containing an entrance hall which connects the existing barn to the proposed extension. The proposed extension seeks to provide a kitchen/dining room, an additional bedroom and bathroom. The footprint of the proposed extension would almost double the size of the existing barn conversion scheme.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is a converted stable building with an existing extension at the rear of the building which was approved under application 08/15378/FUL, the extension was approved at the time in order to improve the level of accommodation that could be provided at the site.

2.2 The site adjoins Brookside Caravan Park which consists of a number of modern mobile homes and a bungalow.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Local Member had been contacted and it was requested by Councillor Walpole that the application be considered for determination by Committee.

4.0 Community Representations**- Consultee Comments****SC Conservation – objection**

The dwelling is a converted stable building with extension which was approved in 2008. It is located within a rural location adjacent to the Brookside Caravan Park.

The proposed extension will be to the front of the property and will be a substantial addition effectively doubling its footprint. The original application for the conversion and extension of the building sought to retain the simple agricultural character of the building by minimising new insertions, adding a relatively modest extension to the rear and retaining the buildings simple frontage. The proposed scheme will project much closer to the highway and whilst attempting to replicate the simple frontage, the overall size and shape of the resultant building would not be in keeping with the simple agricultural structure that was originally converted, and this is somewhat at odds with the justification that was provided within the design and access statement for the original conversion. The proposal is considered to be an incongruous addition which dramatically alters the character of the converted stable building and perhaps a further addition to the rear of the property would be looked upon more favourably.

Highways Authority – no objection

The Highway Authority raises no objection to the granting of consent and recommends that the amended parking and turning are be completed in accordance with the approved details prior to the extension being brought into use and maintained for that purpose thereafter.

Drainage Engineer – comments

The drainage details, plans and calculations should be submitted for approval prior to the determination of the planning permission

Melverley Internal Drainage Board – objects in the absence of information

This property lies within the Melverley Internal Drainage District. The property lies close to a Board maintained watercourse which forms the southern boundary to the application site, as shown on the 1:500 site plan and 1:1250 location plan.

The Board require access for their machinery for maintenance purposes, on a minimum 6m wide strip adjoining the watercourse for the full length of the watercourse within the application site. No buildings or structures, whether permanent or temporary, are to be erected within this strip to prevent obstruction of the land needed for maintenance purposes.

Whilst the Board would have no objection in principle to the proposed extension located to the east of the present building nearest the road, as shown, no drainage details, either foul or surface water, are included in the application. Further information is requested from the applicant before the Board's consent can be granted.

Kinnerley Parish Council - supports

- Public Comments

As per the Councils policy, five of the closest neighbouring residents have received letters in relation to the proposed scheme. At the time of writing, no public comments had been received.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Impact on residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Policy CS6 aims to create sustainable places through sustainable design principles and accessibility. Policy H23 of the Local Plan also states that extensions will be allowed provided that they can be adequately accommodated within the curtilage of the existing dwelling without significantly affecting its amenity or the amenity of neighbouring properties and do not adversely affect the character of the original dwelling.

6.1.2 In this instance the dwelling is a converted barn. The original conversion scheme was granted planning permission in 2008 under planning permission numbered 08/15378/FUL. At that time the key issue was to maintain the agricultural appearance of the building by ensuring that the layout and form of the dwelling respected the layout and form of the barn, this involved minimal extensions and alterations. When planning permission was originally granted for the conversion, the permitted development rights for extensions and alterations were removed to allow the Local Planning Authority to retain control of the appearance of the building. The up to date policy for converting rural buildings (CS5) supports conversion of rural buildings which take account of and make a positive contribution to the character of the buildings and the countryside”.

6.1.3 There are few instances where traditional agricultural buildings can be extended without there being a detrimental impact on the character and appearance of the building. Often extension can result in the over domestication of what was a traditional agricultural building. The scheme to originally convert the buildings would have been acceptable on the basis of the building being worthy or retention and of landscape importance. Accordingly it is considered that the proposal is contrary to Policies CS6 and CS17 of the Core Strategy.

6.2 Siting, scale and design of structure

6.2.1 As can be seen from the descriptions above the proposed extension does not have design relationship to the agricultural character of the site or its rural context. Almost any extension to the buildings would dilute the agricultural character of the building. The design of the extension is not of an exceptional design where they could be considered to enhance the appearance of the building or to improve its setting. The siting, scale and size of the extension are considered to be incongruous to the original scheme and would have not been permitted when the barn was originally converted; the extension would create an alien element to an agricultural barn and would result in the over-domestication of the barn.

6.2.2 Although the building is not listed it is considered to be a heritage asset because of their historical interest and a valued component of the historic environment and its contribution it makes to the landscape. CS17 of the Core Strategy aims to ensure

that the historic environment is conserved.

- 6.2.3** Policy CS6 of the Core Strategy aims to protect, restore, conserve and enhance the natural, built and historic environment by ensuring development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. It is considered in this instance that the proposed extensions do not have any regard to the locally distinctive character of the building or its agricultural context.
- 6.2.4** As noted by the Conservation Officer, the proposed extension will be to the front of the property and will be a substantial addition effectively doubling its footprint. The proposed scheme will project much closer to the highway and whilst attempting to replicate the simple frontage, the overall size and shape of the resultant building would not be in keeping with the simple agricultural structure that was originally converted, and this is somewhat at odds with the justification that was provided within the design and access statement for the original conversion. The proposal is considered to be an incongruous addition which dramatically alters the character of the converted stable building.
- 6.2.5** In summary it is considered that this extension would have a negative impact on the character and appearance of the barn. The proposed addition is therefore not deemed to be appropriate in pattern and design for this development and is therefore contrary to Core Strategy Policies CS6 and CS17.

6.3 Impact on residential amenity

- 6.3.1** The proposals are single storey in nature and contain no windows on the east elevation which could overlook the neighbouring Brookside Caravan Park. As such it is considered that any impact upon residential amenity would be marginal.

7.0 CONCLUSION

It is considered that the proposed extension is not of an appropriate design and scale. As such, they would have a detrimental impact on the agricultural character, appearance and form of the barn. Accordingly the scheme fails to comply with policies H23 of Local Plan, CS5 and CS6 of the Core Strategy, Type and Affordability of Housing SPD and PPS5- Planning for the Historic Environment.

The proposed extension to this residential barn conversion is not considered to meet the criteria of Core Strategy Policies CS6 and CS17. It is considered to be inappropriate in pattern and design and would introduce an element which is unsympathetic and alien to this traditional converted barn, adversely affecting its character and appearance. Refusal is therefore recommended.

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. BackgroundRelevant Planning Policies

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

RELEVANT PLANNING HISTORY:

OS/08/15378/FUL Extension and conversion of former agricultural building to provide a dwelling GRANT 10th June 2008

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 Arthur Walpole
Appendices

This page is intentionally left blank



Committee and Date

North Planning Committee

12 May 2015

Item

9

Public

Development Management Report

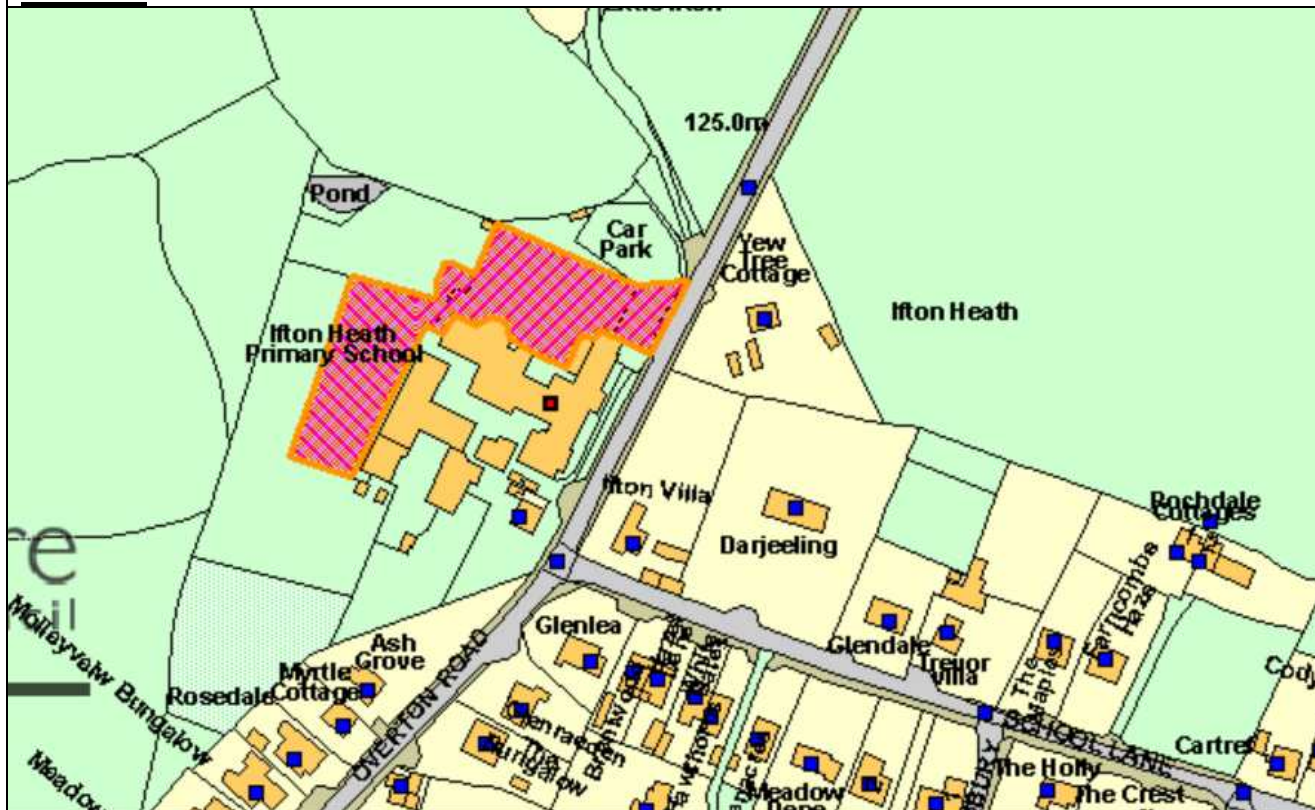
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/00537/FUL	Parish: St Martins
Proposal: Change of use of part of former school site to provide temporary residential site for single travelling showpeople family for a period of up to one year	
Site Address: Ifton Heath C P School Overton Road Ifton Heath St Martins Shropshire	
Applicant: Assets And Estates Team	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 332617 - 337165



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

1.1 The application proposes the change of use of the existing hard surfaced play area of the site at Ifton Heath school for 12 months for the siting of caravans for occupation by Mr Stokes and his family who are Travelling Show people. No physical works are proposed to the site, the land is currently hardstanding and the application does not propose any structures or alterations to the site. It is seeking consent for the siting of caravans on the land for a period of 12 months for occupation by a single family group. The application site also includes the access to the site and the grassed playing field to the rear of the buildings for use as play area and for the applicants dogs but does not include the school buildings or the car park to the north.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site consists of the hard surfaced play area and grassed field to the north and west of the school buildings at Ifton Heath Primary school which is no longer used as a school and has been out of use since the closure of the school. The proposal is to site the caravans and associated vehicles on the hard standing and to use the grassed area for amenity space. No structures or additional hard surfacing is proposed.

2.2 Ifton Heath school lies on the northern edge of the village of St Martins with existing housing to the east and south, a business to the north and agricultural land to the west and beyond the housing and business to the north and east. The school is made up of a variety of buildings with the roadside building being single storey, brick and tile with multi-pitched roofs. The hard surfaced play area is to the north of this building and is enclosed with green mesh fencing.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view which is contrary to officers and is considered to be based on material planning reasons. The Principal Planning Officer, in consultation with the committee chairman and the Local Member, agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **St Martins Parish Council – Objects** strongly to this application.

St Martins Parish Council are concerned that they were not involved in the proposal to use the land at the former Ifton Heath Primary School as a temporary base for the Stokes travelling fairground and the family. Shropshire Council owns the land and could have allowed the use of the site for up to 28 days without the need for planning permission. If the Parish Council had been consulted, it would have expressed concern at the inappropriate use of a site so close to village

homes and with poor site access for large vehicles. It seems to us that the impact on local roads and services were not consistent with support for this proposal. In any event, we would have sought a limit on the number of vehicles, caravans, trailers and other equipment allowed to use the site, we would have wanted any use to be limited to the members of the Fairground family alone, and we would have wanted strict controls over the use of equipment such as generators to avoid any disturbance to local residents.

In reality, Shropshire Council permitted the occupation of the site and has now submitted a planning application for temporary use of the site (excluding the buildings) for a period of up to one year. Regrettably, while the application is limited to the use of the site by only the one family, it proposes the use of the site for up to one year rather than limiting it to 28 days at a time. While the application does propose limiting the use of the site to a maximum of 5 static and touring vans, there is no clear limitation on the number of trailers and other fairground vehicles and equipment.

The application states that a permanent site for the travelling show people family is being resolved but there appears to be no firm plan for this and no planning application has been submitted for any permanent site to be established. Indeed our information is that concerns about land and water contamination on the site under consideration may render it unsuitable for development.

In these circumstances the Parish Council is opposed to this application. We also object to the erroneous and incomplete information contained in the current planning application and we are concerned that the process followed so far has not included any consultation with local people.

Furthermore recent observations of the site show vehicles already parking outside the proposed boundary limit of the application. We want to see the former school site developed for the benefit of the local community, either as a centre for business or the community or both. Approval of this planning application will effectively blight the site for at least a year and if rapid progress is not made on a permanent site potentially even longer.

Recognising the sensitivity of the situation with the loss of the existing site being used by the travelling fairground family, we ask Shropshire Council to withdraw this application and to enter into urgent discussions with ourselves and other local Parish and Town Councils to look for a better interim (and medium term) solution within the 28 days for which the Ifton Heath site can currently be used without the need for any planning permission.

4.1.3 **Council Highway Officer** – Having regard to the temporary nature of the proposal, as set out in the Design & Access Statement, the highway authority have no objection to permission being granted.

4.2 **Public Comments**

4.2.1 1 public comment has received objecting to the application on the following grounds:

- Stokes family moved onto site on the day residents were consulted and as such are occupying illegally

- What is the long term plan and what happens after 12 months?
- Where is the water and sewerage connection?
- Are they paying council tax? And can existing residents council tax be reduced?

5.0 THE MAIN ISSUES

- Policy & principle of development
- Need and status of applicants
- Suitability of proposed site
- Layout of site
- Impact on local area and neighbours amenities
- Access and highway issues
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & Principle of Development

- 6.1.1 This application is to establish a temporary site for a single family of travelling showpeople for a period of up to 12 months. Travelling showpeople are defined in the Planning Policy for Traveller Sites (PPTS) (2012) as being:
“Members of a group organised for the purpose of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or family’s or dependant’s more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently but excludes Gypsies and Travellers” (as these are defined separately).
- 6.1.2 There is a distinct difference within the National Policy, which is also recognised within the local policy noted below, between “Gypsies and Travellers” and “Travelling Showpeople”. They are different groups of people with different needs and different ways of life. The consideration of the current application is similar to the consideration undertaken for applications for gypsies and travellers, however it is not the same. Development of such sites, by their very nature, is often contentious. However, local planning authorities are obliged to ensure that the accommodation needs of travelling showpeople is assessed and addressed through a plan-led process. A site for travelling showpeople is known as a “yard” or “plot”. It is not appropriate or reasonable to assume that travelling showpeople can use gypsy and traveller sites (pitches) due to the differences noted above and within the PPTS. Therefore the needs of the travelling showpeople should be considered separately to the needs to gypsies and travellers.
- 6.1.3 At a National level the Planning Policy for Traveller Sites (PPTS) was brought out in March 2012 following the National Planning Policy Framework (NPPF) and these replace the former PPS’s and Circular 01/2006 on gypsy and traveller caravan sites. Both the NPPF and the PPTS reiterate the requirement that planning decisions must be taken in accordance with the development plan, unless material considerations indicate otherwise. The development plan is in this instance the Shropshire Core Strategy which has a specific policy for Gypsies and Traveller Provision (Policy CS12) which includes providing for the accommodation

needs of travelling showpeople and a specific requirement within the policy for identifying a site in the North-West of Shropshire for travelling showpeople. Policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development Principles) and CS9 (Infrastructure Provision) are also material to the decision along with the Supplementary Planning Document on Type and Affordability of Housing (SPD).

6.1.4 The key issues in considering this application are set out in paragraph 22 of the PPTS as follows:

- a) The existing level of local provision and need for sites
- b) The availability (or lack) of alternative accommodation for the applicants
- c) Other personal circumstances of the applicant
- d) That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/ plots should be used to assess applications that may come forward on unallocated sites

Consideration should also be given to the following:

- Is the site in a suitable and sustainable location?
- Is the site reasonably accessible to services and facilities?
- Is suitable access provided?
- Is the site well planned or landscaped in such a way as to positively enhance the environment and increase its openness

6.2 **Need and status of applicants**

6.2.1 At a national level Gypsies and Travellers are estimated to make up less than 1% of the population of England, but only a proportion of gypsies and travellers live in caravans. Travelling Showpeople are a smaller percentage again and are a very limited part of the population. And this is reflected within the local policy.

6.2.2 In a Shropshire context accommodation needs have been identified in the sub-regional Gypsy and Traveller Accommodation Assessment. Through the Core Strategy Shropshire aims to provide a new site of around 4 plots for travelling showpeople within the north-west of Shropshire. As such it is acknowledged that there is a need for new sites and case law has established that, for Gypsy and Traveller applications, the balance between rights of the individual and the rights of others has to take into account the difficulties faced by this recognised ethnic group in finding any suitable sites on which to live, that respects their culture. This legal situation means that the identified need is a material consideration which must be given significant weight by the Council in reaching any decision.

6.2.3 The site identified in north-west Shropshire is for the proposed occupiers of the application site, Mr Stokes and his family which consist of his wife, brother and two sons and their families. The accommodation requirements are therefore 5 caravans and therefore the 4 plots proposed within policy CS12. It is considered that there is an identified need for a new site for Mr Stokes and his family and that no further evidence is required of need. Furthermore, no questions have been raised about the status of Mr Stokes and his family as travelling showpeople who have been living on the land adjacent to the Smithfield Livestock Market in Oswestry for a number of years but have had to relocate due to redevelopment of that site.

6.2.4 Concerns have been raised by the Parish Council and local residents that this site is not suitable for permanent occupation, that no permanent solution has been found and that the potential alternative site would not be acceptable due to contamination. Although these concerns are valid concerns and will need to be considered by the Council when determining the future with Mr Stokes and his family, this is not a matter for consideration at this time. The current application seeks consent for use of the site for up to 12 months. Should consent be granted it would be a matter for the Council and Mr Stokes to pursue an alternative site either for temporary occupation after the 12 months at this site, or for permanent occupation. What needs to be determined is whether the current site is suitable for use for up to 12 months and this will depend on the impacts of the development.

6.3 **Suitability of proposed site**

- 6.3.1 The application site is on the edge of St Martins using part of the ground of the former Ifton Heath Primary School. Outside of the development boundary for St Martins as shown in both the saved Oswestry Borough Local Plan and the Shropshire Site Allocations and Management of Development (SAMDev) plan and as such, for planning purposes the site is considered to be countryside. However, policy CS12 (Gypsy and Traveller Provision) supports development for this use close to the Community Hubs and Clusters such as St Martins. The policy does not prevent or resist this form of development outside of the development boundaries. Policy CS5, which controls development in the countryside, provides an exception for housing which is to meet an identified need, including the needs covered by policy CS12.
- 6.3.2 St Martins is identified within the SAMDev as a Community Hub with future housing growth of about 200 homes. The village has a number of services and facilities including a supermarket, recreation fields, community centre, church and school. The village has 1 proposed housing site for allocation within the SAMDev to provide approximately 80 houses. As such the village is considered to be a sustainable settlement with services and facilities and a settlement which could provide for gypsy and traveller sites in accordance with CS12.
- 6.3.3 The site is adjacent to the primary school buildings and opposite existing housing. Although it is on the edge of the built development it is not considered to extend the village into the open countryside. There is an established hedge boundary around the school boundaries and the application site does not extend beyond the hedge. The proposal is for siting the caravans and associated vehicles on the hardstanding which was previously used as the school playground. The use of this part of the site means that no further hardstanding is required and therefore no built development is required to enable the occupation of the site for up to 12 months.
- 6.3.4 Although this does mean that the caravans and associated vehicles are visible from the Overton Road, which runs past the site, they have been located at the rear of the hardstanding and as such are set back into the site. The design and access statement also suggests that the occupation of the site by Mr Stokes and family will also provide security for the school site which was vacant before occupation by Mr Stokes. It is Officers opinion that the layout has been undertaken in an appropriate manner which provides security and natural

surveillance of the site and access and as such is acceptable and does not result in harm to the character of the area.

- 6.3.5 Concern has been raised about the fair equipment and vehicles on site and it was noted at the time of the case officer's site visit that there was one piece of equipment on the car park to the north of the playground which was set up. At the site visit Mr Stokes confirmed that this was ready for inspection by the relevant authorities and once the inspection had been completed the equipment would be moved off-site. Mr Stokes has confirmed that the fairground equipment spends most of the year being moved from fair to fair and it is not within his interest to have equipment sat around unused and not making money. As such it is likely that for the majority of the 12 months that there will not be any fair equipment on site.
- 6.3.6 The Parish Council have also raised concerns that the use of the site, even for up to 12 months, may affect the ability of the Council to sell the site. This may have been a valid concern if the occupiers of the site had a detrimental impact on the site. However, Mr Stokes and his family have tidied up the site which had become overgrown and dirty since the closure of the school and officers consider that the caravans are well positioned on the site in a suitable layout. Any potential purchaser would be made aware of the use, should it be given consent, and also of the implications on purchase with regard to giving a reasonable time period for the site to be vacated. There is no reason why the proposed use currently being considered should prevent sale of the buildings and land or even prevent community use of the buildings.
- 6.3.7 It is also considered that the development of this site as proposed would meet the sustainable criteria in paragraph 11 of the PPTS. The site provides the opportunity to promote integrated co-existence between the occupants and the community; although only for 12 months it will provide the occupants with a settled base for up to 12 months and enable the family to continue to access health services and schools which they have been using during their occupation of the livestock market site.
- 6.4 Layout of site, scale and design of buildings**
- 6.4.1 Policy CS12 also requires all developments to incorporate suitable design and screening and have suitable access and areas for manoeuvring and parking. Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.4.2 As noted above the caravans have been laid out on site at the rear of the existing hardstanding in a row, end on to the road. The site is already enclosed with security fencing on the roadside and a hedge on the north boundary with the school buildings to the south. The land between the caravans and the roadside fence is available for parking and manoeuvring. No built development is proposed. The caravans provide all of the accommodation requirements for the family, kitchens and bathrooms within the units without the need for washrooms.
- 6.4.3 Policy CS12 requires all gypsy and traveller developments to incorporate suitable design and screening and the PPTS requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. The site is already enclosed with fencing and hedge

boundary limiting the view of the development from the open countryside beyond the village. The current application for temporary use, does not propose any additional fencing or boundary treatments and it is considered that the existing boundary and siting provides sufficient screening and an appropriate layout so as not to result in significant adverse impacts.

6.5 **Impact on local area and neighbours amenities**

- 6.5.1 Paragraphs 12 and 23 of the PPTS states that when considering the suitability of a site regard should be had to the scale of the nearest settled community. As noted above St Martins is being promoted as a Community Hub, the third tier in the settlement hierarchy below Shrewsbury and the Market Towns. It is one of the larger villages in the north west of Shropshire and has a number of services and facilities. The proposals for a travelling show people's yard for one family, providing up to 5 plots, would not therefore dominate the settlement.
- 6.5.2 The Parish Council and residents have raised concerns about the impact of the use of this site on the existing village houses, however there is no detail of what the concern is. The nearest dwelling to where the caravans have been positioned is Yew Tree Cottage which is opposite the entrance to the site and is approximately 35 metres from the boundary fence of the site and therefore further from the position of the caravans. The distance will ensure that there is no loss of privacy and will also reduce the potential for light pollution providing the lighting is provided appropriately to not spill beyond the site. All other surrounding properties are further from the application site and therefore the amenities of existing residents would not be adversely affected by the development.
- 6.5.3 Concern has also been raised by the Parish Council about the use of generators on the site. The agent for the applicant has confirmed that there are no generators on site, the caravans are connected to the mains electricity in the school buildings. It was also noted that at the time of the case officer's site visit that there was no noise from the caravans positioned on site. As noted above the fair equipment is likely to be off-site for most of the 12 month period applied for and if it is on site this will be for storage purposes only. Mr Stokes has confirmed that there is no intention to operate the fair on site. The land is proposed to be used as the home for Mr Stokes and his family and as such their own amenities are part of the consideration and excessive noise would not be appropriate for their family, which includes a small baby.
- 6.5.4 With regard to the impact from traffic movements regard has to be had of the previous use of the site as a school which will have had associated traffic, large number of cars dropping off and collecting children, large delivery vehicles, buses to transport for trips and also the general noise of the use as a school and playground. Regard also should be given to the confirmation that for the majority of the 12 month period applied for the fair equipment, and therefore the larger vehicles used to tow the equipment is off site travelling between fairs. As such it is considered that noise from traffic would be limited to the traffic associated with the occupation of the 5 residential caravans and as such would be a limited impact.
- 6.5.5 Overall it is considered that the use of the site, as laid out, for 5 caravans and associated traffic for occupation by a single family would not result in unacceptable loss of amenity for the residents of the neighbouring properties.

6.6 Access and highway issues

- 6.6.1 A single access is proposed providing both vehicular and pedestrian access off Overton Road. The access uses the existing vehicle access which serves a small parking area to the north of the school building and a gate through the security fencing onto the hard standing. The Council Highway Officer has confirmed that the highway authority have no objection to permission being granted.
- 6.6.2 Concern has been raised about the potential traffic levels, this has been briefly commented on above. However, the impact of traffic levels on the local highway also needs to be considered. The design and access statement submitted with the application confirms that there is proposed to be a maximum of 5 static caravans on the site and these have been positioned on the site and will not be moved until Mr Stokes and family vacate the site. As also previously noted the fair equipment and associated vehicles spend most of the year moving from fair to fair and will not be present on site on a regular basis. It is not intended for the fair equipment and vehicles to be brought back to Ifton Heath between shows, Mr Stokes aims to keep the equipment in use and moving around to maximise business. As such the traffic movements of the larger vehicles and equipment will be minimal.

6.8 Drainage

- 6.8.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity.
- 6.8.2 The caravans are sited on existing hard standing and as such will not create any additional surface water run-off. The agent for the applicant has confirmed that the caravans are not connected to the mains drainage system but are using their own internal facilities with a contract for emptying the systems. This therefore provides a form of private foul drainage and therefore no additional pressure on the existing foul or surface water drainage system.

6.9 Other matters

- 6.9.1 The main issue raised by the Parish Council and the local objector relates to the siting of the caravans and family on the site prior to the granting of consent, that no consultation was undertaken prior to them moving and that there is no long term plan. The Parish Council response notes that they would have raised concerns about the suitability of the site but that this concern appears to relate to the movement of large vehicles, which has been considered under section 6.6 of this report, and the close proximity to homes, which has been considered under 6.5 of the report.
- 6.9.2 With regard to long term plans for the Stokes family, this is not a matter which can be considered. The application submitted needs to be considered on its merits, the long term plans for the family will need to be considered by the family and by other departments of the Council and a separate planning application submitted at the time an alternative site is found.
- 6.9.3 The objectors query regarding Council Tax is not a material planning consideration and not a matter which planning officers can advise on.

7.0 CONCLUSION

- 7.1 Overall the development is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy, the site is close to the proposed community hub of St Martins and as such is close to a sustainable settlement. The scale of the development and the temporary nature of the current application is considered to be acceptable and would not result in any harm to the character of the area furthermore the proposed use of this site would not result in harm to the amenities of nearby residents given the distance of existing properties from the site.
- 7.2 The unmet need for a site for travelling showpeople within Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed harm in many cases.
- 7.3 In the case of this application it is officers opinion that there is no harm resulting from the use of the site for up to 12 months for the single family and therefore that there is no grounds on which to refuse consent.

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 - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose 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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

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

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far 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

Planning Policy for Traveller Sites (PPTS) (2012)

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

CS5 - Countryside and Greenbelt

CS12 - Gypsies and Traveller Provision

CS18 - Sustainable Water Management

SPD Type and Affordability of Housing

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 Steven Davenport
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. This permission shall be for a period of 12 months, from the date of this permission, by which date the caravans shall have been removed off site and the site reinstated to its previous condition.

Reason: The temporary consent is granted on the basis of the personal circumstances of the applicant and the status of the site.

2. The development shall be carried out strictly in accordance with the approved plans.

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 residential use of the site hereby permitted shall be limited to Mr Stokes and his resident dependents only.

Reason: To control the occupation of the site in accordance with adopted policy and on the basis of the personal circumstances of the applicant and the status of the site.

4. No more than 10 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

5. This consent does not permit the commercial operation of any of the travelling show equipment from the application site. The land may be used for the storage of the equipment out of season but shall not be used for the operation of the equipment.

Reason: To protect residential and visual amenities.

-



Committee and Date
 North Planning Committee
 12 May 2015

Item
10
 Public

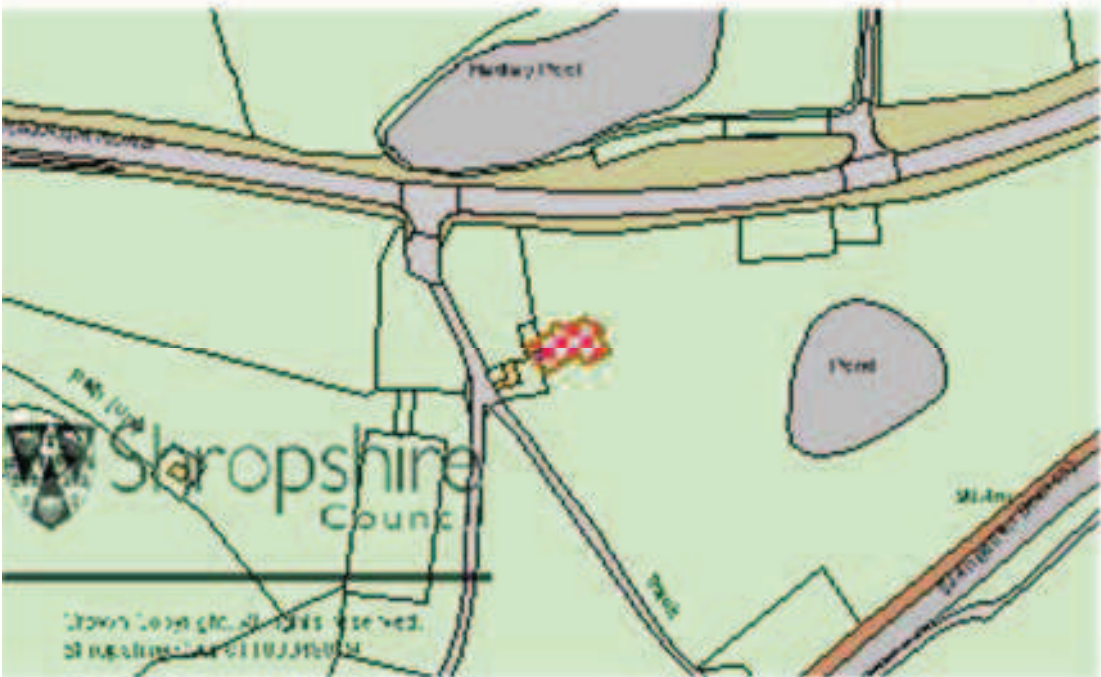
Development Management Report

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

Summary of Application

Application Number: 15/00329/FUL	Parish:	Whitchurch Urban
Proposal: Erection of a replacement cafe		
Site Address: Proposed Cafe At Hadley Farm Wrexham Road Whitchurch Shropshire		
Applicant: Mr & Mrs P & J Wynn		
Case Officer: Melanie Durant	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 351808 - 341148



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is for the erection of café in replacement to the catering unit and toilet block which was granted permission on the 21st July 2011

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The equestrian centre and the application site lie on the opposite side of the A525 from the farmhouse and is in an area identified as being in open countryside in the North Shropshire Local Plan. The land is relatively flat and is at a lower level than the adjoining highway with the boundary to the highway defined by a mature, high hedge which screens the majority of the site from view. The building will be sited on part of an existing car park which is surfaced in hardcore and it is separated from the remainder of the equestrian centre through post and rail fencing.

- 2.2 There are no residential properties within close proximity of the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications made, by or on behalf of, or relating to the property of Members or officers of the Council who hold politically restricted posts or who either directly or indirectly report to the Group Manager Environment.

4.0 Community Representations

- Consultee Comments

Shropshire council Drainage:

Requested that conditions and informatives be added to any decision notice

Shropshire Council Ecology:

Requested informatives be added to any decision notice

Shropshire Council Highways:

Whilst the highway authority have no objection to the permanent café facility at this location, which replaces the existing temporary structure previously granted a temporary consent (Ref.11/02093/FUL), the application only includes the site building and not the associated car parking area. Although the current car parking area is within the applicant's ownership, it is considered that the granting of a permanent consent for the café building should also include the associated car parking area and conditioned accordingly.

A plan and confirming email was sent following these comments showing the parking area for the new café which is as existing.

Canal & Rivers Trust:

This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee.

- Public Comments

Whitchurch Town Council supports the application.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Policy CS13 of the Shropshire Council Core Strategy indicates the Council's approach to positively develop and diversify the Shropshire Economy through supporting enterprise and delivering sustainable economic growth and prosperous communities. Furthermore policy CS16 encourages appropriate development to deliver high quality sustainable tourism, cultural and leisure facilities.

6.1.2 Planning permission was granted in 2011 for the erection of a toilet facility and catering unit. The buildings were required in order to provide additional facilities for the users of the equestrian centre. At the time the need had been demonstrated for these units and a temporary planning permission was granted to assess the success of the operation over a period of years. Since this time the applicant has run a successful venture and wishes to replace these existing facilities with a more permanent, robust building.

6.1.3 The on-site provision of such facilities will enable the centre to potentially attract more users and increase its popularity. As such these will have the potential to help the business to prosper further and to continue to operate in this area providing a benefit to the local economy. Customers include the users of the equestrian business and members of the public. As a local attraction it is important to encourage necessary development where appropriate to support the continued success of such operations.

6.1.4 In view of the above the principle of the proposed development would be in accordance with the requirements of policies CS13 and CS16.

6.2 Siting, scale and design of structure

6.2.1 The proposal is to replace the existing catering unit and separate toilet block with a single building incorporating toilet facilities, seating area, kitchen and servery. The building will be single storey and constructed using timber.

6.2.2 The proposed design and external appearance of the structure will be an improvement on the current unit and will be more in keeping with the character and appearance of the rural area.

6.2.3 In addition, it is considered by officers, that the development is of a scale which will not be visually intrusive in the rural landscape and through the use of timber cladding will help this to blend with the rural surroundings. Therefore it is advised that officer opinion is that the proposed development is of a scale and design that is appropriate for this location and the development is in accordance with policies CS5 and CS6 of the Shropshire Council Core Strategy.

7.0 CONCLUSION

The proposed development will provide an improvement to an established and popular facility at an important local attraction and it is appropriate in its design and scale and it will have a minimal impact upon the character and appearance of the rural landscape. Therefore the proposed development is in accordance with policies CS5, CS6, CS13 and CS16 of the Shropshire Council Core Strategy.

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

National Planning Policy Framework

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS16 - Tourism, Culture and Leisure

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

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 Thomas Biggins Cllr Peggy Mullock

Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

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

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 has been submitted to, and approved 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.

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

4. The external materials and their colour shall be as shown on the deposited plan, no alterations shall be made to these materials or colour without the express consent in writing of the Local Planning Authority.

Reason: To ensure that the proposed development shall harmonise with surrounding development.



<u>Committee and Date</u>
North Planning Committee
12 May 2015

<u>Item</u>
11
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: 15/00352/VAR	Parish:	Whitchurch Urban
Proposal: Variation of Condition No.2 (approved plans) attached to planning permission reference 14/00344/COU dated 5th June 2014 to revise the layout of the caravan park		
Site Address: Hadley Farm Wrexham Road Hadley Whitchurch SY13 3AB		
Applicant: Mr P Wynn		
Case Officer: Melanie Durant	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 351939 - 341337

© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

- 1.1 The application is for a variation of condition no. 2 (approved plans) attached to planning permission reference 14/00344/COU dated 5th June 2014 to revise the layout of the caravan park.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The land is located adjacent to the canal and comprises open grazing land. There are small sections of hedgerows along the field boundaries, with fencing completing them. Most of the land is fairly level, however the levels rise up to the canal. Access to the site is off the A525 Wrexham Road using an access that serves other existing dwellings, the equestrian and catering facilities as well as the agricultural land. Once past the main entrance the access track forks with the spur leading to the site and the main section leading on to the houses and other land that is in the control of the applicant. The track is unsurfaced and leads to the bridge over the canal and peters out in the field beyond.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications made, by or on behalf of, or relating to the property of Members or officers of the Council who hold politically restricted posts or who either directly or indirectly report to the Group Manager Environment.

4.0 Community Representations

- Consultee Comments

Shropshire Council Rights of Way:

The public right of way Whitchurch Footpath 99 passes to the north east of the development site. Whilst it would not be directly affected by the proposed caravan park, there are a number of longstanding issues concerning public rights of way in this area. The Mapping & Enforcement Team have previously been in discussions with the applicant about applying to divert some of the footpaths concerned and this would appear to be a timely opportunity for us to contact him again about the matter.

Shropshire Council Highways:

The Highway Authority raises no objection to the alteration to the internal layout of the caravan site as submitted.

Canal & Rivers Trust:

We have no comments to make on the revised layout of the caravan park. However, we note on the planning approval condition 4 (relating to foul drainage) and condition 5 (relating surface water discharge) and we look forward to being consulted on the discharge of these conditions.

Shropshire Wildlife Trust:

The variation of Condition No.2 would not appear to have any significant ecological effect and therefore Shropshire Wildlife Trust has no comment in relation to this application.

- Public Comments
Whitchurch Town Council support the application

One neutral comment was received regarding the right of way, as follows:
As assistant Ramblers Footpath Sec for this area I must insist that the activities associated with this application do not interfere with the use of or impede the passage along the right of way 0234/99/1 nor should materials be stored on the right of way. There should be access at all times to the Right of Way.

5.0 THE MAIN ISSUES

- Proposed alterations to approved scheme
- Impact on amenity

6.0 OFFICER APPRAISAL

6.1 Proposed alterations to approved scheme

6.1.1 The proposed variation of condition 2 will see the approved scheme altered in several ways.

6.1.2 These include a change to layout of the access track through the site. Currently two tracks run through the site giving access to the pitches, the proposal is to replace this layout with a looped single access which will provide safer ingress and egress from the site by towing vehicles etc.

6.1.3 A second change to the approved scheme is the relocation of the shower block, this will now be positioned the rear of the site and at the centre of the new looped track-way. This will provide easier and more convenient access of the facility by users of the site.

6.1.4 Other alterations include minor changes to the layout of the caravans again providing better privacy and safer access to the pitches plus the addition of hard-standing beneath the caravans.

6.1.5 In summary the variation to the scheme would provide an improvement to the current approved plan in terms of ease of access, health and safety, better privacy for occupiers etc. Therefore the proposed alteration is considered acceptable and will accord with policies CS5 and CS6 of the Shropshire Core Strategy.

6.2 Impact on residential amenity

6.2.1 The position of the site means the overall impact on the amenities of neighbouring properties based purely on the amendments to the scheme is considered to be minimal. There are no residential properties immediately adjacent to the application site. In addition the distance from the caravan site to the nearest dwellings would be sufficiently far enough to not cause any loss of light or privacy to the residents of Blackoe Cottages.

6.2.2 As such it is considered that the new scheme is acceptable and there will be little to no adverse impacts on the surrounding area created by the alterations in accordance with policy CS6 of the Shropshire Core Strategy.

7.0 CONCLUSION

The proposed variation of the original scheme to provide additional or altered facilities at the site are considered to be acceptable in visual terms with no adverse impact on the surrounding open countryside or local amenities. As such the proposed development is considered to accord with policies CS5 and CS6 of the Shropshire Core Strategy.

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

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

Relevant planning history:

NS/07/01195/FUL Proposed erection of a reception cabin in association with equestrian cross country course CONAPP 1st August 2007

NS/90/00174/FUL Erection of agricultural workers dwelling and alterations to existing vehicular and pedestrian access. GRANT 2nd January 2015

NS/89/01068/OUT Erection of agricultural workers dwelling (re-submission). GRANT 13th December 1989

11/01199/FUL Erection of two storey extension to side to form residential annex ancillary to the existing dwelling GRANT 22nd June 2011

11/02093/FUL Provision of catering unit and toilet block GRANT 21st July 2011

12/03675/AGR Erection of an agricultural building for the storage of agricultural equipment and machinery PNR 13th September 2012

14/00344/COU Change of use of agricultural land to tourist caravan site for 10 no. touring caravans and 8 no. seasonal caravans GRANT 5th June 2014

14/02914/FUL Installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras. GRANT 24th October 2014

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 Thomas Biggins Cllr Peggy Mullock
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original permission which was dated 5th June 2014.

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 and amended plans and drawings.

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

3. The conditions of planning permission ref. 14/00344/COU dated 5th June 2014 remain in full effect.

Reason: To define the permission.

-



<u>Committee and Date</u>
North Planning Committee
12 May 2015

<u>Item</u>
12
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 12th May 2015

Appeals Lodged

LPA reference	14/01426/OUT
Appeal against	Refusal of Planning Permission
Committee or Del. Decision	Committee
Appellant	Mr P Eardley
Proposal	Outline application for the erection of 14 open market dwellings and 3 affordable dwellings to include access, layout, scale and appearance
Location	Land South Off Chapel Lane, Chapel Lane, Norton In Hales, Shropshire
Date of appeal	20.03.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/01304/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	T E R Morris
Proposal	Outline application for the erection of 3 no. dwellings and associated garaging to include means of access
Location	Land to the North of Chain Lane, Maesbury
Date of appeal	20.3.2015
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/02634/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr K C Brown
Proposal	Outline application for a single detached residential dwelling and garage to include means of access.
Location	Land to the west of Dovaston, Shropshire
Date of appeal	20.03.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04781/FUL
Appeal against	Non Determination
Committee or Del. Decision	Delegated
Appellant	Mr Ian Ward
Proposal	Erection of a dwelling and improvements to existing vehicular access
Location	Heatherdale, Dudleston Heath, Ellesmere
Date of appeal	20.03.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04101/OUT
Appeal against	Non determination
Committee or Del. Decision	
Appellant	Mr and Mrs R Hancocks
Proposal	Outline application of the erection of 4 no. holiday lets with associated parking
Location	Land NW of Walnut House, Ruyton XI Towns
Date of appeal	23.03.2015
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/01777/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Seven Sisters
Proposal	Installation of a single wind turbine and associated ancillary infrastructure
Location	East side of Ellesmere Road, Ellesmere, Oswestry
Date of appeal	20.03.2015
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03131/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr K Dowle
Proposal	Erection of 1 no. dwelling
Location	Land to the rear of 26 Edgeley Road, Whitchurch
Date of appeal	27.03.2015
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/02529/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R Roberts
Proposal	Temporary siting of a mobile home or large touring caravan to provide warden services on a seasonal basis
Location	Bridleway Caravan Park Henlle Lane, Gobowen
Date of appeal	27.03.2015
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03316/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Ms Lisa Baer
Proposal	Outline application (access for approval) for the erection of four detached dwellings: formation of vehicular access
Location	Land to the north of Oakleigh Cottages
Date of appeal	27.03.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04559/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Corbett C/O First City Limited
Proposal	Outline application (layout, scale and access not reserved) for 40 dwellings. including 8 bungalows with open space and access to A49 (Amended description)
Location	Land East Of Shrewsbury Road Hadnall Shropshire
Date of appeal	15.04.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/002251/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Eccleston
Proposal	Two dwellings with garages and formation of vehicular access
Location	Land north west of The Last Inn, Hengoed
Date of appeal	17.04.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/00236/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Lazy Days Motorhomes – c/o PRP Consultants
Proposal	Outline application (access) for mixed residential development; formation of vehicular access; demolition of all buildings and structures; associated infrastructure
Location	
Date of appeal	17.04.2015
Appeal method	Bespoke Inquiry
Date site visit	Lazy Days Sales Centre, High Heath, Hinstock, Market Drayton, Shropshire
Date of appeal decision	
Costs awarded	
Appeal decision	
LPA reference	14/0546/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Maiden – C/O Kembertons
Proposal	Outline application for the erection of 8 dwellings to include means of access
Location	Land At O.S.5073 Newport Road Hinstock Shropshire
Date of appeal	24.04.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	13/03845/OUT
Appeal against	Refusal of Planning Permission
Committee or Del. Decision	Delegated
Appellant	Bridging Loans Ltd – C/O Les Stephan Planning Ltd
Proposal	Outline application for the erection of 5 detached dwellings (all matters reserved)
Location	Old Colehurst Manor Colehurst Market Drayton TF9 2JB
Date of appeal	10.12.2014
Appeal method	Hearing
Date site visit	
Date of appeal decision	18.03.15
Costs awarded	
Appeal decision	Dismissed

LPA reference	13/01735/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr A E Hughes
Proposal	Erection of 6 dwellings and access to Selattyn School
Location	Land at Gyrn Road, Selattyn
Date of appeal	13.08.2014
Appeal method	Written reps
Date site visit	09.03.2015
Date of appeal decision	23.03.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/03339/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr D Jones – C/O The Planning Group Ltd
Proposal	Outline application for the erection of one dwelling to include means of access
Location	Proposed Dwelling South Of Lowe Hall Farm The Lowe Wem Shropshire
Date of appeal	01.12.14
Appeal method	Written Representation
Date site visit	
Date of appeal decision	24.03.15
Costs awarded	
Appeal decision	DISMISSED

LPA reference	14/02977/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs R Bright
Proposal	Outline application for 3 no. dwellings to include means of access
Location	Sandyman, Kinnerley
Date of appeal	08.01.2015
Appeal method	Written
Date site visit	23.03.2015
Date of appeal decision	17.04.2015
Costs awarded	
Appeal decision	Dismissed

This page is intentionally left blank

Appeal Decision

Hearing held on 24 February 2015

Site visit made on 24 February 2015

by S Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 March 2015

Appeal Ref: APP/L3245/A/14/2229137

Old Colehurst Manor, Colehurst, Market Drayton, Shropshire TF9 2JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Dorothy Fleming against the decision of Shropshire Council.
 - The application Ref 13/03845/OUT, dated 16 October 2013, was refused by notice dated 17 October 2014.
 - The development proposed is erection of five detached dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was submitted in outline with all matters reserved for subsequent approval. I have dealt with the appeal on this basis.
3. There is disagreement between the parties as to whether, in the light of the recently revised policy in the Planning Practice Guidance, a contribution towards affordable housing provision should be provided in this instance. Nevertheless, I have noted the appellant's willingness to pay such a contribution should the appeal be allowed. In any event there is no legal agreement before me to secure such a contribution. However, as I am dismissing the appeal for other reasons this matter has not been decisive.

Main Issue

4. Whether the development would meet sustainable development objectives relating to housing in rural areas.

Reasons

5. The settlement of Colehurst comprises a number of residential dwellings, situated in a group adjacent to the Old Colehurst Manor, a Grade II* listed building. The settlement lies in the open countryside. The appeal site, which previously formed part of Colehurst Manor Farm, comprises an area of open grassland, located on the east side of the settlement. The site has no direct frontage onto a public highway but borders a drive serving four recently converted barns, one of which is itself a Grade II listed building.
6. The development plan includes the Shropshire Core Strategy (Core Strategy) adopted in 2011. The strategy identifies the Council's approach to future

housing development, setting out a hierarchical approach that focusses growth on Shrewsbury, market towns and other key centres, but which also supports some growth in other settlements to enable them to function as sustainable local centres and to restrict development in the countryside. One of the objectives of the Core Strategy is to make rural areas more sustainable through a 'rural rebalance' approach accommodating around 35% of Shropshire's residential development over the plan period.

7. Policy CS4 of the Core Strategy seeks to enable rural communities to become more sustainable and allows certain development in 'Community Hubs and Community Clusters', as defined in the Site Allocations and Management of Development Plan (SAMDev), to meet this aim. Development outside these settlements is not permitted under this policy unless it meets the criteria in policy CS5. Policy CS5 seeks to enhance the well-being of rural communities by permitting development in specific categories.
8. The SAMDev, which is an emerging plan recently the subject of an independent examination, excludes Colehurst from the list of settlements considered to be a Community Hub or Community Cluster although I note that nearby settlements of Tyrley, Woodseaves (Sutton Lane) and Woodseaves (Sydnall Lane) are contained within the list. As such housing development within Colehurst is not supported by Policy MD1 of the SAMDev or by Policy CS4 of the Core Strategy. Nor does the development fall within one of the categories of development permitted under policy CS5.
9. I have noted the appellant's concerns about the late exclusion of Colehurst from the proposed Community Hub and Community Cluster identified in the SAMDev. This is not a matter for my consideration under a section 78 appeal. Nevertheless, the SAMDev is the subject of unresolved objections and in accordance with the principles of paragraph 216 of the National Planning Policy Framework (the Framework) I can therefore give it only limited weight in the consideration of this appeal.
10. At the heart of the Framework is the presumption in favour of sustainable development. Paragraph 7 identifies three dimensions to sustainable development; economic, social and environmental. In terms of the economic role the development would play, there would be a benefit to the local economy during the construction phase of the development and thereafter in terms of support for facilities and services in nearby towns. However, in the absence of substantive evidence to demonstrate otherwise, the economic impact of 5 dwellings would be limited.
11. The social role of sustainability includes supporting strong, vibrant and healthy communities. There is no evidence before me to suggest that the development would meet a local need for housing from within the existing community. However, it would add to the supply of housing in the district, albeit on a limited scale. I also note that the appellant is willing to provide a contribution towards affordable housing in line with the Council's requirement should the appeal be allowed. These are benefits of the scheme which I have taken into consideration.
12. Colehurst is a small settlement that has no facilities of its own. Other small settlements in the vicinity also have limited or no community facilities. The appellant advises that Market Drayton, the nearest town, is around 1.4 miles from the site and around 1km from the A41 where there is a public transport

service. Notwithstanding the distances involved between the site and services, the surrounding road network is narrow and unlit with no footpaths, and I noted in parts is poorly drained. As such it is unattractive as a walking route for residents in terms of meeting day to day needs. Nor is it suitable as a walking route for all sections of the community. In my judgement it is therefore likely that residents of the development would use the private motor vehicle to access the facilities and services they need.

13. I have taken into consideration the point made by the appellant that even within built-up areas people rely on the car to access services, facilities and places of employment and I have noted the data in the Department of Transport's National Travel Survey on average trip lengths. I also accept that supermarket deliveries to the site are possible and that there is a school bus service. Nevertheless the proposal does not meet one of the core planning principles of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. Moreover, the principles of sustainability are about more than distances to services.
14. The environmental role of sustainability includes contributing to protecting and enhancing the natural and built environment. The site is presently open agricultural land. There is no evidence before me to suggest that it has been previously developed and as such the development would not meet another of the Framework's core principles, set out paragraph 17, to encourage the effective use of land by reusing 'brownfield' land. Moreover, whereas the settlement generally has a compact, nucleated form, the development would have a linear form which would extend considerably beyond the existing grouping of buildings into open countryside on the north-east side. It seems to me therefore, that the development would not relate well to the physical pattern of the settlement. In addition given that the surrounding land is flat and relatively open, the development would be visible in wide ranging views including from the public footpath which would have a harmful urbanising impact on the character and appearance of this part of the countryside. Recognising the intrinsic character and beauty of the countryside is another of the Framework's core principles.
15. I accept that the land does not have any statutory designation or protection and that, in order to achieve the Council's 'rural rebalance' aims, some areas of countryside would be lost to facilitate development. However, the Framework, and the Core Strategy policies outlined above seek to ensure that patterns of growth are actively managed to take into account the principles of sustainability. Paragraph 55 notes that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. In this case, the benefits to the community of the appeal scheme are unlikely to be so significant as to outweigh the harm that I have identified.
16. I recognise that the group of barns have been successfully restored, such that they now make a positive contribution to the character and appearance of the area, and that the condition of the appeal site improved. However, this in itself does not provide a justification for further development. I also accept that traditional hedging could be incorporated into the development but this, to my mind, would not adequately mitigate against the harm caused by the development in terms of its urbanising influence. The environmental role of

- sustainability also encompasses the protection or enhancement of the historic environment to which I now turn.
17. The Council has not raised an objection to the principle of the development in terms of its impact on the heritage assets, the listed Old Colehurst Manor House and barn, although I note the Council's conservation officer has expressed concern. Nevertheless third parties have raised the matter and under s.66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I am obliged to have special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest. The glossary to the Framework defines the setting of a heritage asset as 'the surroundings in which a heritage asset is experienced' and confirms that 'significance derives not only from the asset's physical presence but also from its setting'.
 18. The site lies at a distance from Old Colehurst Manor, separated from it by the group of converted farm buildings which form part of the historic development of the settlement. The Manor, which has considerable importance by virtue of its being Grade II* listed, can be seen and thereby experienced from the appeal site which therefore forms part of its setting. Moreover, the site forms part of the setting of the immediately adjoining listed barn. It seems to me that the open agricultural character of the landscape provides a context for the barn, and to a lesser extent the Manor, as do the neighbouring group of buildings. As the development will change the character of the land from open agricultural land to developed urban land, the development would have a notable impact on the setting of both of the listed buildings.
 19. Paragraph 128 of the Framework requires a local planning authority to require an applicant to describe the significance of any heritage assets affected including any contribution made by their setting and advises that the level of detail submitted should be proportionate to the asset's importance. Paragraph 129 requires the local planning authority to identify and assess the significance of any heritage asset that may be affected by the proposal taking account of the available evidence and any necessary expertise.
 20. The barn is referred to in the Design, Access and Planning Statement which accompanied the planning application and the illustrative site layout indicates that no dwellings would be positioned directly in front of the barn in order to preserve its setting. However, the Statement does not refer to Old Colehurst Manor and moreover, there is no specific assessment of the significance of either of the heritage assets or their setting as required by paragraphs 128 and 129. Nor has any such assessment been made by the Council. As such, the requirements of the Framework have not been met in this respect.
 21. I have noted the Conservation Officer's original opinion that the development would have some detrimental impact on the setting of the listed barn. The Conservation Officer's later comments indicate that any development should look to reflect the historic growth of the settlement and retain the settlement pattern, opining that the indicative site layout is not considered appropriate in this context. English Heritage comments only on the impact of the development on the Manor, stating 'the impact of the development can probably be mitigated by appropriate design and landscaping' but suggest the Council should satisfy itself on these matters. No comment or assessment is made by English Heritage in respect of the listed barn.

22. I accept the views of both main parties that this is an outline application with all matters reserved for subsequent approval, including the design and layout of the development. However I am mindful of the statutory duty set out in s.66 (1) and the considerable importance I must attach to the desirability of preserving the setting of these listed buildings. Whilst neither main party has fully set out the significance of the listed buildings, I noted the presence of both at my site inspection and find that a clear indication of their significance can be derived from the list descriptions and their historical origins. The buildings in question have an evident relationship to their rural setting and the appeal scheme would introduce modern residential development close by. This would likely impinge unacceptably on the rural context within which these heritage assets are experienced and, based on currently available evidence, I am not satisfied that the effect could be mitigated adequately by the use of reasonable planning conditions. As such the development would not preserve the setting of the listed buildings. The resulting harm would be notable albeit less than substantial yet the public benefits arising would not be sufficient to outweigh the adverse impacts.
23. In terms of the main issue, I therefore conclude that, whilst there is some limited economic and social benefit from the provision of additional dwellings, and a contribution to affordable housing provision, the development lies in an unsustainable location and moreover would not meet the environmental role of sustainability in terms of preserving the natural, built and historic environment. The development would therefore be unsustainable and, as such, contrary to Policies CS4, CS5 and CS6 and CS17 of the Core Strategy, and to the principles of sustainability set out in the Framework as a whole.

Other Matters

24. Since the determination of the application, the Council claim that they can now demonstrate a five year supply of housing land. The appellant disputes this in terms of, amongst other things, the methodology for the calculation of the housing land supply, the deliverability of certain sites and the approach to developments that have not yet received planning permission. Moreover, the revised housing land supply figures, and their evidence base, have yet to be the subject of independent examination. As such I do not have sufficient evidence to draw an accurate conclusion on the matter.
25. However, even if I were to accept that the Council could not demonstrate a five year housing land supply, and thereby relevant policies for the supply of housing were out of date, the 'golden thread' running through the Framework is the presumption in favour of sustainable development. For the reasons outlined above I have concluded that the proposal does not constitute sustainable development. The benefits of the scheme in terms of the provision of five residential units, the potential provision of a contribution towards affordable housing and other economic benefits are relatively limited because of the scale of the development. As such the adverse effects of the scheme, its unsustainable nature, including its potential impact on the setting of the heritage assets, significantly and demonstrably outweighs the benefits when considered against the Framework as a whole.
26. I have taken into account the concerns of the local residents in relation to the impact of the scheme on protected species and ecology. However, there is no conclusive evidence before me that such interests would be harmed.

Conclusion

27. For the reasons above, and having regard to all other matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rob Mills Les Stephan Planning Ltd

Helen Howie Berrys

FOR THE LOCAL PLANNING AUTHORITY

Richard Denison Shropshire Council

Edward West Shropshire Council

Daniel Corden Shropshire Council

INTERESTED PERSONS

Sandra Williams Local resident

Michael Dams Local resident

This page is intentionally left blank



Appeal Decision

Site visit made on 9 March 2015

by Mr A Thickett BA(Hons) BTP MRTPI DipRSA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 March 2015

Appeal Ref: APP/L3245/A/14/2223172

Gyrn Road, Selattyn, Shropshire, SY10 7DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A E Hughes against the decision of Shropshire Council.
 - The application Ref 13/01735/OUT, dated 7 May 2013, was refused by notice dated 25 March 2014.
 - The development proposed is the erection of 6 dwellings and access to the Morda Primary School approved car parking facility (OS/08/15744/FUL). The application is in outline with appearance, landscaping and scale reserved for subsequent approval.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the impact of the proposed development on the character and appearance of the area.

Reasons

3. The site is part of a larger field and comprises a triangular piece of land on the edge of the small village of Selattyn. The site is bounded to the west by Gyrn Road and to the east by a bridleway; there is no physical boundary to the rest of the field which lies to the south. The proposed access from Gyrn Road would be extended to the eastern boundary and across the bridleway to land behind the village primary school which has permission for a new car park.
4. Larkhill lies on the western side of Gyrn Road and would be opposite part of the site to be designated as open space. It is the last house in the village on Gyrn Road and the proposal would result in new building beyond and divorced from the village by the proposed open space and access. They would also be grouped around the internal access road and inward facing. Consequently, in my view, the proposed houses would be poorly related to and set part from the existing buildings in the village. Gyrn Road rises as it leaves the village and the site is at a higher level again. The proposed houses would be elevated significantly above the existing buildings in the village which, in my view, would exacerbate the feeling of incongruity.
5. The proposed Site Layout Plan shows that most of the bank and hedge to the Gyrn Road boundary would be lost to create the proposed access and visibility splays. The Highway Authority also seek a condition requiring Gyrn Road to be widened. Although this would improve highway safety, the tight intimate

character of the lane at this point contributes to the village's charm and the loss of the bank and hedge would have an adverse visual impact.

6. The bridleway sits in a deep ditch which separates the site from the school grounds. It is hemmed in by high banks topped with mature hedges and some large trees. At the proposed crossing point the lane is about 2.5m below the appeal site. The indicative section shows that a significant amount of earth would need to be moved on the site and the school grounds. The works would also result in the loss of trees on both sides of the bridleway.
7. The indicative section runs along the line of the proposed road but there are no other plans to show how the sides of the new road would be graded or retained. It is not possible, therefore, to assess the extent of the engineering/earthworks required to provide the link or to assess the full impact these works would have on the lane. However, from my observations, it is likely to be significant which adds to my concerns with regard to the adverse visual impact of the proposed development.
8. For the above reasons, I consider that the proposed development would have an unacceptable impact on the character and appearance of the area. I conclude, therefore that the proposal conflicts with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy 2011.

Other matters

9. The site lies outside the settlement boundary as defined in the Ovestry Borough Local Plan 1996-2006 and the emerging Shropshire Site Allocations and Management of Development plan. The Council accept that due to their age and status these plans can only be afforded limited weight. Further, if as alleged by the appellant, the Council's contention that it can demonstrate a 5 year housing land supply is wrong, this lessens the weight to be given to the development plan policies relating to the supply of housing land.
10. The Council accept that Selattyn is a sustainable location for new development and I acknowledge that the provision of the access to the permitted school car park and an affordable house would be significant benefits¹. However, I do not consider that these matters outweigh the harm described above.

Conclusions

11. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Anthony Thickett

Inspector

¹ To be provided through a unilateral undertaking submitted in support of the appeal application.



Appeal Decision

Site visit made on 9 March 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 March 2015

Appeal Ref: APP/L3245/A/14/2229173

Land Opposite Lowe Hall Farm, The Lowe, Wem, Shrewsbury SY4 5UE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Jones against the decision of Shropshire Council.
 - The application Ref 14/03339/OUT, dated 24 July 2014, was refused by notice dated 25 September 2014.
 - The development proposed is described as outline residential planning consent to include access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details submitted with the application concerning the layout and scale as a useful guide as to how the site could be developed.

Main Issues

3. The main issues are:
 - The effect of the appeal development on the character and appearance of the surrounding area;
 - Its effect on the setting of Lowe Hall and the Gate Piers, both grade II listed buildings;
 - Its effect on biodiversity; and
 - Whether the proposed development can be regarded as sustainable.

Reasons

Character and Appearance

4. Policy CS5 of the Shropshire Core Strategy March 2011 (the Core Strategy) states, among other things, that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. The supporting text to the Policy, at paragraph 4.72, also states that proposals which would result in isolated, sporadic, out of scale, badly

- designed or otherwise unacceptable development, or which may either individually or cumulatively erode the character of the countryside, will not be acceptable.
5. The site is largely a field, roughly rectangular in shape located to the south of the Loppington to Ryebank road. There is a pond in the eastern portion of the site close to the junction of this road and Lowe Hill Road. There is a small group of buildings to the north of the Loppington to Ryebank road which include dwellings, as well as outbuildings that have the appearance of being in equine and/or agricultural use.
 6. In the vicinity of the appeal site the character of the area differs markedly to the north and to the south of the road. To the north it is characterised by the small group of buildings and development concentrated to the east and west of the road that leads to Whixall. In contrast, the land to the south is reasonably open and has a more rural feel. Although it is separated by boundary treatment, the site has a similar appearance and character to the neighbouring fields such that this area to the south of the road, including the site, collectively has the appearance of attractive, open countryside.
 7. Although matters other than access are reserved for future consideration, any dwelling built at the appeal site would be readily apparent due to the site's reasonably prominent position at the junctions of these roads along with the fairly open local landscape. Development of this nature, no matter how well designed, would appear as an intrusion into the countryside, detracting from the open character of the landscape. This harm would be exacerbated by the residential use of the site through, for instance, the introduction of domestic paraphernalia, such as parked cars, garden furniture and children's play equipment.
 8. The proposed development would, therefore, have a harmful effect on the character and appearance of the surrounding area. Consequently, in this respect it would conflict with Policies CS5, CS6 (Sustainable Design and Development Principles) and CS17 (Environmental Networks) of the Core Strategy and with the National Planning Policy Framework (the Framework).

Heritage Assets

9. One of the properties to the north of the road roughly opposite the appeal site is Lowe Hall, a grade II listed building. There are also Gate Piers to the Whixall road frontage of Lowe Hall that are grade II listed in their own right.
10. Lowe Hall is a farmhouse dated from 1666, which has been remodelled and extended. It is an attractive two-storey building faced with red brick and with an L-plan and prominent external end stacks. Due to its size, height and quality of design relative to the neighbouring buildings, it appears as the primary building among this group. For these reasons, combined with its siting, Lowe Hall is also prominent, particularly when viewed from the east and the south as it stands close to the junction of Lowe Hill Road and the Loppington to Ryebank road.
11. All matters other than access would be reserved for future consideration. Nonetheless, due to the appeal site's location to the south of Lowe Hall and reasonably close proximity, the proposed erection of a dwelling within it and its use for residential purposes would diminish the primacy of this listed building.
12. As the listed Gate Piers are small structures, located on the Whixall road frontage I am satisfied that the proposed development would not have an adverse effect on their setting. This does not, however, alter my assessment in respect to its effect on the setting of Lowe Hall.

13. I have had special regard to the statutory duty to pay special attention to the desirability of preserving the setting of listed buildings. For the reasons outlined above, I find that the appeal site forms an important part of the setting of Lowe Hall and that the proposed development, due to its nature and the site's location relative to this listed building, would have a harmful effect on the setting of the listed building. In this regard, therefore, the proposal conflicts with Policies CS6 and CS17 of the Core Strategy and with the Framework.

Biodiversity

14. The Framework sets out that, in determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. I have taken account of the Council's submissions regarding the potential effect of the proposed development on protected species and biodiversity and note the concerns raised. Nonetheless, the Phase 1 Environmental Survey submitted with the planning application in my view provides appropriate coverage of the relevant considerations. While it does identify some issues, it makes reasonable recommendations in response to the matters arising, including in respect to Great Crested Newts. These recommendations could be reasonably secured and controlled via planning conditions.
15. Given the nature of the appeal proposals and the size of the site, I am also satisfied that, through the careful consideration and control of the reserved matters, the site's development could proceed without significantly affecting the pond and plantation in the eastern portion of the site.
16. For these reasons the proposed development would not have a significant effect on biodiversity such that, in this regard, it would not conflict with Core Strategy CS17 or with the Framework. Consequently, the appeal development would have a neutral effect in this respect.

Whether the Development is Sustainable

17. In paragraph 7 of the Framework, the Government recognises three dimensions to sustainable development, giving rise to the need for the planning system to perform a number of roles – economic, social and environmental. The proposal would play a small economic role insofar as construction would support growth in this rural area and the use would potentially support shops, schools and other services in the area. The appellant's evidence also indicates that the proposal would be liable to a CIL payment, affordable housing payment and on-going Council Tax Revenue.
18. However, this would be at the expense of an environmental role, in spite of the proposed energy efficiency measures, insofar as it would fail to protect the historic environment and the area's character and appearance.
19. I have also considered whether the proposed development would fulfil a social role, as a contributor to the supply of housing aimed at supporting a strong and vibrant community. To promote sustainable development in rural areas, the Framework states that housing should be located where it will enhance or maintain the vitality of rural communities. Based on the evidence before me and on my observations when visiting the locality, the area in the vicinity of the site has very few services. The nearest large settlement is the town of Wem to the south. I noted that there are no footways along the roads that link the site to Wem or to any other settlements in the wider area. There is also no evidence of any bus services in the vicinity of the site. Given these circumstances it would be unlikely for residents of the proposed dwelling to access services on foot or by cycle in favour of using private motor vehicles.

20. Having regard, therefore, to paragraph 55 of the Framework, it appears to me that the proposal is unlikely to enhance or maintain the vitality of rural communities. Occupiers of the proposed development would be likely to drive to Wem to access services in preference to other smaller settlements such that the proposal is unlikely to support services in rural villages, as paragraph 55 envisages, given the site's remoteness. The development is also for a market dwelling and is not proposed to meet a recognised local need. All of this counts against the wider social role that the proposal could perform. For these reasons the proposals would also conflict with Core Strategy Policy CS4 (community hubs and community clusters).
21. I therefore conclude that the proposal would not meet the requirements of paragraph 55 of the Framework and would not, insofar as it would fail to perform an environmental or social role, be sustainable development as envisaged in paragraph 7 of the Framework.
22. There is disagreement between the parties as to whether or not the Council has identified a five-year supply of deliverable housing land. However, even if there is not such a supply, I consider that the contribution this development would make towards addressing an undersupply of housing, combined with any other matters that weigh in favour of the proposal, would not outweigh the harm the scheme would cause as outlined above. Therefore, it is not the sustainable development for which there is a presumption in favour.
23. In reaching this conclusion I have borne in mind paragraphs 47-49 of the Framework and its guidance that planning should always seek to secure high quality design, conserve heritage assets in a manner appropriate to their significance and take account of the different characteristics of different areas. Policies CS4, CS5, CS6 and CS17 of the Core Strategy conform to the thrust of national planning policy in this regard. Furthermore, while the harm resulting from the proposed development to the listed building, Lowe Hall, is less than substantial it is not outweighed by any public benefits of the proposal.

Other Matters

24. My attention has also been drawn to other proposals for residential development in rural locations. However, each proposal falls to be assessed on its own merits and, in any event, I am not aware of all of the circumstances associated with these other cases.

Conclusion

25. For all of the reasons given above, I conclude that the appeal should be dismissed.

G D Jones

INSPECTOR

Appeal Decision

Site visit made on 23 March 2015

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 April 2015

Appeal Ref: APP/L3245/W/14/3000948
Sandeman, Kinnerley, Oswestry SY10 8DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs R Bright against the decision of Shropshire Council.
 - The application Ref 14/02977/OUT, dated 2 July 2014, was refused by notice dated 6 November 2014.
 - The development proposed is outline application for 3 residential properties, all matters reserved except for access.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. This is an outline planning application with access considered at this stage with all other matters reserved for later determination. The application contains information on a possible layout, landscaping and descriptions of the type of housing that would be built, a bungalow and two dormer bungalows. I have treated these details as indicative only.
3. The spelling of the property 'Sandeman' is adopted by the Council and the appellants in their submissions. I have used this version as opposed to 'Sandyman' found on the application form.

Main Issue

4. The main issue in this case is whether new housing in this location is acceptable having regard to the principles of sustainable development.

Reasons

The location of the development in relation to sustainable development

5. The appeal site comprises a paddock field situated to the rear of residential properties fronting the road which links Dovaston with Kinnerley and Knockin Heath. The site is accessed from a track to the side of Sandeman. Adjoining the appeal site to the north is a field containing some 400 ground mounted solar panels. Adjacent to the appeal site to the west is a triangular area of coppice, beyond which are residential properties that extend northwards along a lane to Netherfield. To the east of the appeal site is a small paddock next to Maple Cottage which is set behind the residential properties fronting the road.

6. Dovaston is characterised by linear and ribbon development established in separate pockets of built-up areas along the road, which are interspersed by individual houses or smaller groups focused on nearby crossroads and road junctions. Knockin Heath has a similar form of ribbon development established around the main road. Kinnerley is a larger village and comprises a small service centre which includes a Church, shop, post office, public house, school, and Community Hall.
7. No such facilities exist presently in Dovaston other than a Church and Chapel. The road to Kinnerley has no footpath is relatively narrow and forward visibility is somewhat restricted by bends and high boundaries along its path. Kinnerley Parish Council notes that the village is some 1km away from Dovaston. It indicates that local bus services are infrequent. The appellants indicate that the service is reasonably frequent. I note that the bus service runs every two hours and not in the evenings. I consider that cycling would not be an attractive proposition for many on narrow lanes which are used by local traffic. Walking on narrow and unlit roads would not be an attractive alternative either for residents of the development, particularly in meeting their daily needs, or to access employment, community and or health facilities.
8. I note the opposing views on the question of accessibility. However, I conclude that I would score the sustainability of the site as low, in terms of locating development where the need to travel is minimised and access to services and facilities by means of sustainable transport modes is realised. The likelihood is that residents of the development would use the private motor vehicle to access facilities and services for much of their day-to-day needs.
9. The appellants have produced an appraisal of the effects of the development on landscape character and visual amenity. The appraisal has taken into account the Parish of Kinnerley Design Statement and Landscape Character Assessment. The Council opposes the development on the basis that it is an undesirable 'backland' development out of keeping with the linear pattern and layout of the existing settlement.
10. The properties which are set some distance away from the road frontage are Netherfield, Dovaston Bank and the development under construction behind Summerhill. Maple Cottage is another dwelling located down a drive and is set behind road frontage properties. The pattern is similar in relation to the Manse and Dovaston House. Maple Cottage, Dovaston House are examples of individual properties which are scattered across the area, a point reflected in the Parish Design Statement. Because they are individual properties and scattered by their respective locations, they contrast to the overall linear pattern of houses, but they do not in my view represent a reason to extend the residential pattern behind frontage properties.
11. I am not persuaded by the case that due to the presence of Maple Cottage development in depth and behind existing houses should be granted. There is clear separation between the appeal site and Maple Cottage. The field to the side of Maple Cottage separates and sets this cottage apart from the proposed development. Similarly the coppice to the west distinguishes the residential development to the west from the location of the appeal site. The new development adjacent to Netherfield faces onto a lane. Whilst it extends the built-up area to the north, unlike the appeal proposal it is not a development behind frontages properties but development which has its own frontage.

12. The solar panel development is situated to the north of the appeal site. Both residential and solar schemes form part of the same but larger field. The solar panel development is granted for a period of 25 years. Whilst 25 years is a considerable period of time it does not have the same degree of permanence as a residential development, when assessing its impact. Notwithstanding the solar panel development to the north of the appeal site, the proposed development would form a settlement extension to the north of the village and behind frontage properties which would be unrelated to the established properties to the east and west due to the level of separation between them and the appeal site. I consider the proposal would be at odds with the linear form, pattern and layout of established buildings. In my view the development would materially harm the pattern and layout of properties in this particular group and would not relate well to the physical pattern of the settlement.
13. I note that the proposed development would be framed by the coppice, the solar panel development, Maple Cottage and frontage properties. However, there would be cursory glimpses of the development, despite mitigation from proposed landscaping; from the village road junction heading north passed The Firs. From this viewpoint the development would be seen as an urban extension of the settlement to the north. The environmental role of sustainability includes contributing to protecting and enhancing the natural and built environment. In this regard the proposal does not integrate well with the linear form of the settlement, and would to some limited extent be a development incursion into the countryside.
14. I note the appellants' point out that development of the site would avoid extending the linear form of the settlement which in turn degrades the historic gaps between settlements. However, this does not outweigh the harm that I have identified to the settlement pattern and its intrinsic character. There are other reported sites which are 'set to be approved' in the village. I have no information on these, but it may indicate that the Council considers that these sites are preferred to the appeal site in terms of the three dimensions to sustainable development.
15. The appellants note that the development would provide new native hedgerow and tree planting. The proposal would provide a pond to improve the ecological value of the site. The development would be 'eco-friendly' in terms of heat loss, and building materials would be sustainable and domestic appliances would be highly efficient. The development would incorporate an integrated surface water drainage system and rainwater harvesting.
16. It is reported that the development would provide employment to local traders. The appellants indicate that the land is suitable for development and is available immediately. It is noted that Community Infrastructure Levy payments will apply to this development, but no detail has been provided.
17. In terms of the social dimension the development would support local facilities and services. The properties would be rented out but not specifically to meet an affordable local housing need.
18. In relation to the main issue, although there is some economic and social benefit, the development lies in an unsustainable location and would not meet the environmental role of sustainability in terms of preserving the natural and built environment. I conclude that the proposal would not represent sustainable development. The Council's Core Strategy adopted in 2011 sets

out the housing requirement over the plan period, and seeks to establish in rural areas Community Hubs or Community Clusters. However, the main determining policy on which the Council refused permission was policy CS6. This policy amongst other matters promotes sustainable development principles ensuring that all development protects the natural environment. I consider the development is contrary to policy CS6, and to the principles of sustainability set out in the National Planning Policy Framework (the Framework).

Other matters

19. There is a dispute between the parties whether the Council's claim that there is a five year supply of housing land is correct. The appellants have produced a rebuttal assessment which challenges the figures and in turn the weight which can be attributed to policies concerned with the supply of housing land. These in effect are the Council's Core Strategy policy CS4, and saved policy H7 of the Oswestry Borough Local Plan which defined the settlement boundary where only small scale infill development could take place. It also limits the weight given to the emerging Site Allocations and Management of Development Plan (SAMDev) which retains the same settlement boundary as that in policy H7, and the Kinnerley Parish Neighbourhood Plan (KPNP) which is aligned with the emerging SAMDev and its proposed settlement boundary.
20. The SAMDev has been through examination in public, but the Inspector has requested further information. The KPNP has been formally adopted by the Council but it is not a neighbourhood plan although it is aligned with the SAMDev.
21. The appellants indicate that there is a 3.72 years' supply of housing land even if the SAMDev sites were adopted. However, the appellants consider that the allocated sites within the emerging SAMDev should be excluded from the supply of housing land, as there are outstanding objections to a number of allocations. Furthermore, a number of the sites have deliverability issues. The appellants also consider that the Council should adopt an annualised, rather than a phased approach to the delivery of housing.
22. The Council does not comment on the issue. In the event that the Council do indeed have a five year housing land supply the proposal would be unsustainable for the reasons set out above. In the event that the Council do not have a five year housing land supply the weight given to this harm would be reduced, and that to policies concerned with the supply of housing land having regard to paragraph 49 of the Framework.
23. The Council would also seek an appropriate contribution to the provision of affordable housing under Council's Core Strategy policy CS11. This would be delivered through a planning obligation. No obligation has been provided in this case. However, amendments to the Planning Practice Guidance on 28 November 2014 specify that contributions for affordable housing should not be sought from developments of less than 10 units or in designated rural areas from developments of 5 units or less. On this basis I conclude that the financial contribution towards affordable housing is not required.

Overall Conclusions

24. At the heart of the Framework is a presumption in favour of sustainable development. However, I have concluded that the proposal would not represent sustainable development when all three dimensions referred to in the Framework are considered. All these factors weigh against the development.
25. I have concluded that the proposal would be contrary to the development plan and national policy in terms of its location.
26. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. However, even in the absence of a 5 year housing land supply, when the factors in support of development are weighed against the factors against, I conclude that the adverse effects of allowing the development significantly and demonstrably outweigh the benefits.
27. I have taken into account the concerns of the Parish Council and local residents in relation to the central determining issue and other matters. My attention has been drawn to other developments determined at appeal which are distinguishable to this case in terms of location and impact on the environment. I have determined this case on its individual merits.
28. I conclude that the appeal should be dismissed.

Iwan Lloyd

INSPECTOR

This page is intentionally left blank