



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

Date: Monday, 18 April 2016

Committee:
South Planning Committee

Date: Tuesday, 26 April 2016

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

David Evans (Chairman)
David Turner (Vice Chairman)
Andy Boddington
Nigel Hartin
Richard Huffer
John Hurst-Knight
Cecilia Motley
William Parr
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Charlotte Barnes
Lee Chapman
Heather Kidd
Christian Lea
Vivienne Parry
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 257716
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the minutes of the South Planning Committee meeting held on 1 March 2016.

Contact Linda Jeavons (01743) 252738.

3 Public Question Time

To receive any questions 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 The Lodge, Camp Lane, Ludlow, Shropshire, SY8 1EQ (15/01819/FUL) (Pages 9 - 28)

Erection of replacement dwelling following demolition of existing.

6 Proposed Dwelling To The East Of Ludlow Heights, Bridgnorth, Shropshire (15/04296/FUL) (Pages 29 - 48)

Erection of two storey dwelling with parking.

7 Simpro Ltd, Recycling Centre, Woodhouse Lane, Redhill, Shifnal (15/05598/VAR) (Pages 49 - 68)

Variation of Condition 7 attached to Planning Permission 10/00783/MAW, which replaced MB2001/0749/BR and SC/MB2006/1014/BR dated 29 April 2010 to increase the maximum permitted input over any 12 month consecutive period from 20,000 to 25,000 tonnes.

8 Schedule of Appeals and Appeal Decisions (Pages 69 - 124)

9 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 24 May 2016, in the Shrewsbury Room, Shirehall.



Committee and Date

South Planning Committee

29 March 2016

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 1 March 2016

2.00 - 5.03 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

Present

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Richard Huffer, John Hurst-Knight, Cecilia Motley, William Parr, Robert Tindall, Tina Woodward and Vivienne Parry (Substitute) (substitute for Nigel Hartin)

110 Apologies for Absence

Apologies for absence were received from Councillors Nigel Hartin (Substitute: Viv Parry) and Madge Shineton.

At this juncture, the Solicitor briefed Members on the decision made at the Council meeting on Thursday, 25 February 2016 to amend the Constitution in respect of Part 5 – Local Protocol for Councillors and Officers dealing with Regulatory Matters to permit local Members to make representations for up to five minutes prior to the debate and provide an opportunity for questions to be asked.

111 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 2 February 2016 be approved as a correct record and signed by the Chairman, subject to Minute No. 104, paragraph five, being amended as follows:

- Following confirmation from Planning Officers that the site had been supported and included in Albrighton's Neighbourhood Plan and the Site Allocations and Management Development Plan (SAMDev), Councillor David Beechey, representing Albrighton Parish Council, refrained from speaking any further on the matter.

112 Public Question Time

There were no public questions, statements or petitions received.

113 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.

With reference to planning applications 14/05768/FUL and 15/01817/OUT, Councillors Andy Boddington, Viv Parry and Robert Tindall declared that they were members of The Shropshire Hills AONB Partnership.

With reference to planning applications 14/05768/FUL and 15/01817/OUT, Councillors Cecilia Motley and David Turner declared that they were members of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Partnership Management Board.

With reference to planning application 15/01819/FUL, Councillor Andy Boddington declared that he was acquainted with the applicant and would leave the room and take no part in the consideration of, or voting on, this application.

With reference to planning application 15/01819/FUL Councillor Richard Huffer declared that he knew of the applicant but not as a close acquaintance.

With reference to planning application 15/01819/FUL, Councillor Cecilia Motley declared that she knew of the applicant but not as a close acquaintance.

With reference to planning application 15/05359/FUL, Councillor Cecilia Motley declared an interest insofar as some of the soil would be moved from a site in the ownership of a member of her family. Accordingly, she would leave the room and take no part in the consideration of, or voting on, this application.

With reference to planning application 14/04740/FUL, Councillor William Parr declared that he was acquainted with the applicant and would leave the room and take no part in the consideration of, or voting on, this application.

With reference to planning application 15/01819/FUL, Councillor Viv Parry declared that she knew of the applicant but not as a close acquaintance.

114 Change in Order of Business

RESOLVED:

That, if all speakers were present, agenda item 10 (Westwood Quarry, Stretton, Westwood, Much Wenlock, Shropshire, TF13 6DD – 15/05359/FUL) be considered after agenda item 5 (Development Land Off Calcutts Road, Jackfield – 14/04740/FUL).

115 Development Land Off Calcutts Road, Jackfield, Shropshire (14/04740/FUL)

In accordance with his declaration at Minute No. 113, Councillor William Parr left the room during consideration of this item.

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He drew Members' attention to the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting and provided a verbal update on a further neighbour objection relating to the Tree Protection Plan.

Members had undertaken a site visit and had viewed the site and assessed the impact of the proposal on the surrounding area.

Mr P Smith, representing Broseley Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees. In response to a question from a Member he commented on the location of the open space and considered that it would be more preferable both for the safety of children and to aid maintenance of the site if it was located centrally rather than on the outskirts.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Some Members expressed concern with regard to the isolated location of the open space, but noted that the proposed site layout took into account the past mining use of the site. Members acknowledged that the site was in need of development; commented that the proposal would not generate a significant increase in traffic volume; and considered the proposed scheme to be in keeping with the Conservation Area.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- The satisfactory resolution of outstanding issues relating to the design of the visibility splay;
- The prior completion of a Legal Agreement to secure the requisite affordable housing provision and for the management of open space;
- The conditions set out in Appendix 1 to the report; and
- The following additional condition:

Prior to the commencement of development details of all boundary treatments to the site, including the dimensions, design, materials and colour of walls, fences and other boundaries, shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory appearance of the development.

**116 Westwood Quarry, Stretton, Westwood, Much Wenlock, Shropshire, TF13 6DD
(15/05359/FUL)**

In accordance with her declaration at Minute No. 113, Councillor Cecilia Motley left the room during consideration of this item.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor David Turner, as local Ward Councillor, left the room, took no part in the debate and did not vote on this item.

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members' attention to the location.

Members' noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Members had undertaken a site visit on a previous occasion and had viewed the site and assessed the impact of the proposal on the surrounding area.

Mr A Hill, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- The Conditions set out in Appendix 1 to the report, subject to Condition No. 8 being amended to ensure that prior to the commencement of the development the applicant shall submit details and timing of vehicle movements that would be generated and measures to prevent the build-up of mud on the public highway.

**117 Land To The North Of Three Chimneys Cottage, Norbury, Shropshire
(14/05768/FUL)**

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He drew Members' attention to the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting and provided a verbal update on a further neighbour objection received following publication of the Schedule of Additional Letters.

Members had undertaken a site visit and had viewed the site and assessed the impact of the proposal on the surrounding area.

Councillor O Goode, representing Myndtown Combined Parish Council, spoke against the proposal in accordance with the 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) Councillor Charlotte Barnes, as local Ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During her statement the following points were raised:

- Visibility in and out of the site was poor. Although it appeared that this was a relatively quiet road it was one of the main routes into Shrewsbury. If approved would like to see the access improved before any work commenced on site;
- Any permanent dwelling in the future should remain affordable or include an agricultural occupancy tie;
- The scale of the buildings would have an adverse impact on the landscape and the proposal generally would have an adverse impact on the AONB, tourism and surrounding area;
- Concerned that the acreage would not accommodate the proposed number of horses;
- There was no public transport and no footpaths; and
- Expressed concerns with regard to lighting pollution and drainage.

Mr P Oakes, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees. In response to questions from Members, he provided further clarification with regard to the trench, the number of horses on site, traffic movements, sustainability and electricity provision.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to questions from Members, the Team Manager – Development Management drew Members attention to paragraphs 6.4.3 – 6.4.10 of the report which dealt with the provision of a temporary dwelling; confirmed that a permanent dwelling would be the subject of an agricultural occupancy tie; the Shropshire Council Drainage Officer had raised no objections to the proposal and appropriate conditions would be attached to any permission; provision of electricity was not a planning matter; and there was no proposal to install lighting but a lighting plan would have to be submitted and approved prior to the erection of any external lighting.

RESOLVED:

That full and temporary planning permission be granted as per the Officer's recommendation, subject to:

- The conditions set out in Appendix 1 to the report, subject to Condition No. 4 being amended to ensure that external surfaces of the development shall be BS18B29; and

- That Planning Officers be given delegated powers to ensure the conditions relating to drainage are robust and adequate to ensure no flooding or drainage problems in the future.

(At this juncture, the meeting adjourned at 3:35 pm and reconvened at 3:42 pm.)

(At this juncture, Councillor J Hurst-Knight left the meeting and did not return.)

118 The Lodge, Camp Lane, Ludlow, Shropshire, SY8 1EQ (15/01819/FUL)

By virtue of his declaration at Minute No. 113 and in accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Andy Boddington, as local Ward Councillor, left the room, took no part in the debate and did not vote on this item.

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, she drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit and had viewed the site and assessed the impact of the proposal on the surrounding area.

In the ensuing debate, Members considered the submitted plans. The majority of Members expressed concern with regard to the scale, in particular the mass of the building; materials, design and appearance of the elevations, considering the scheme as proposed would be out of keeping with the character of the Conservation Area; expressed the view that chimney(s) would be preferable; and the depth of eaves overhang should be reconsidered.

RESOLVED:

That the application be deferred to a future meeting to enable further consideration to be given by the applicants to the design, scale and elevations.

119 Land North Of The Coates, Longville In The Dale, Shropshire (15/01817/OUT)

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, she drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit and had viewed the site and assessed the impact of the proposal on the surrounding area.

Councillor M McFarland, representing Rushbury Parish Council a local resident, spoke against the proposal in accordance with the 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) Councillor Cecilia Motley, 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 her statement the following points were raised:

- This site fell within the AONB and was in need of tidying and clearing-up;
- Appropriate landscaping would mitigate any potential visual impact of the proposed dwelling and buildings on the site;
- Would provide employment;
- Parish Council support the proposal; and
- She questioned whether an open market dwelling would be appropriate on this site.

Mr P Middleton, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to questions from Members, the Team Manager – Development Management stated that, if Members were minded to approve, the dwelling should be tied to the business that adjoins it.

RESOLVED:

That, contrary to the Officer's recommendation, planning permission be granted, subject to:

- Any subsequent application for reserved matters to be considered by this Committee; and
- A Section 106 Legal Agreement to ensure that the dwelling house shall remain tied to the yard and that it will not at any time be sold, let or occupied as a separate unit of accommodation.

120 Proposed Residential Development Land East Of Bridgnorth Road, Highley, Shropshire (15/03170/OUT)

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit and had viewed the site and assessed the impact of the proposal on the surrounding area.

RESOLVED:

That, as per the Officer's recommendation, planning permission be refused for the following reasons:

- The Council acknowledges that the housing proposed would contribute economically and socially by boosting the housing supply, including a contribution towards affordable housing, would provide limited support for the existing services in the village and would not detract from the visual amenities

and character of the area. However it is considered that these factors are outweighed by the following harm: The proposed development would fall outside of the development boundary for Highley where Core Strategy policy CS5 and SAMDev policy MD7a restrict new build housing development to dwellings to house essential countryside workers and to meet identified local affordable housing need. No such need has been demonstrated in this case. The proposal is not consistent with the Plan-led approach to development set out in the National Planning Policy Framework and would be contrary to Development Plan policies CS3, CS4 and CS5 of the Shropshire Core Strategy and policies MD1, MD3, MD7a and S9 of the Site Allocations and Management of Development (SAMDev) Plan. There are no other material considerations of sufficient weight to justify a departure from adopted Development Plan policies in this case.

121 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 1 March 2016 be noted.

122 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 29 March 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:



Committee and date

South Planning Committee

26 April 2016

Development Management Report

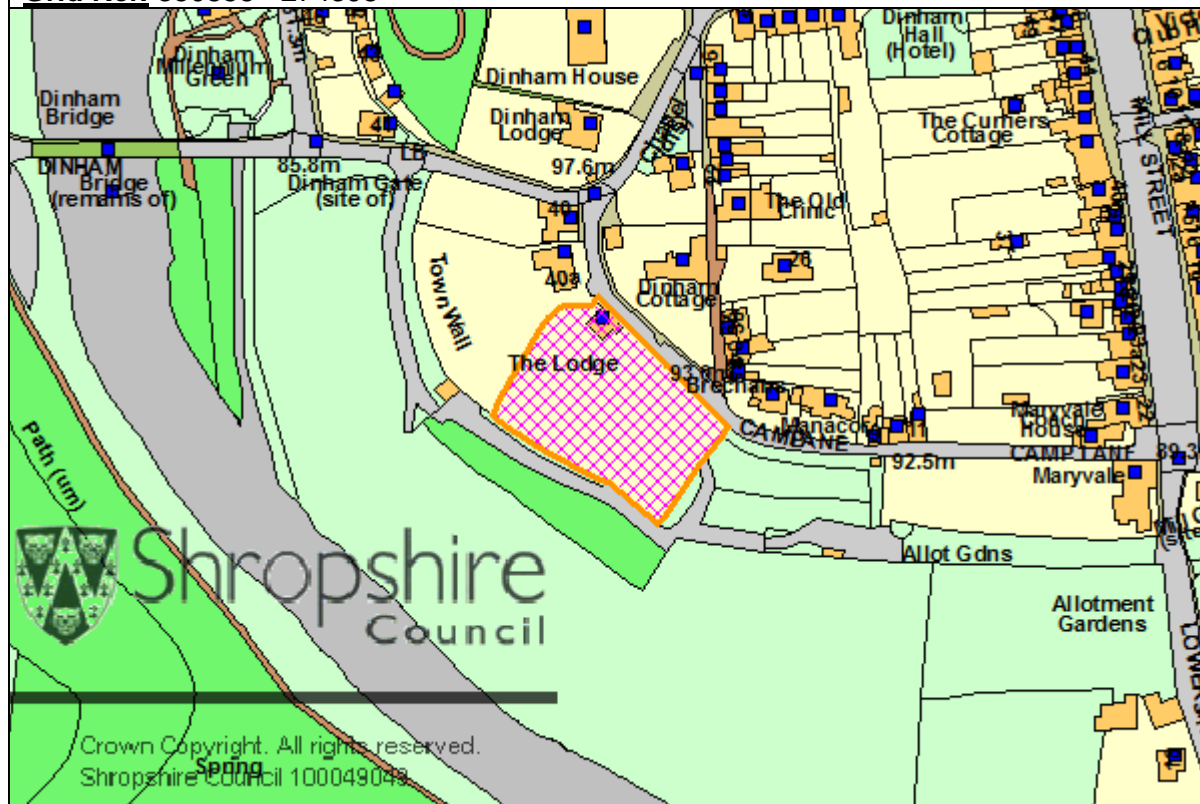
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/01819/FUL	Parish:	Ludlow Town Council
Proposal: Erection of replacement dwelling following demolition of existing		
Site Address: The Lodge Camp Lane Ludlow Shropshire SY8 1EQ		
Applicant: Mr R And Mrs A Cundall		
Case Officer: Chris Hammersley	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 350858 - 274398



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

REPORT

1 THE PROPOSAL

- 1.1 This scheme seeks full planning permission for a replacement dwelling, following demolition of the existing. The application was previously considered by Members at the South Planning Committee held on 01st March 2016. At that meeting it was determined that the application be deferred to a future meeting to enable further consideration to be given by the applicants and their agent as to the design, scale and elevations of the proposal.
- 1.2 During the debate by Members at the meeting of the 01st March 2016 the following key areas of concern were identified for reconsideration: -
- Scale and massing;
 - Too blocky;
 - Lack of Chimney;
 - Long Eaves – unnecessary;
 - Rear gable – better if subservient;
 - Materials too stark;
 - House too standard in design;
 - Lack of local distinctive character and proposed design does not make a positive contribution to this;
- 1.3 In response to the Members concerns a revised scheme has been submitted which proposes the following alterations: -
- Reduction in height of dwelling by a further 200mm, resulting in proposed scheme around 700mm below the height of the existing dwelling;
 - Fenestration amendments to ensure window size and pattern reflects existing dwelling;
 - Reduction in eaves projection to reflect existing dwelling;
 - Alteration to materials - removal of previously proposed facing brick to east projection, use of stone and roughcast render to the walls throughout. The break between the stone and the render on the side elevations proposed to be less formal than to the rear;
- 1.4 The original dwelling measures 85sqm. The external floorspace of the revised scheme remains as originally proposed at 140sqm which is approximately 60% larger than the original. The internal floor space of the proposed dwelling is less than the approximate 60% increase in the external measurement due to the thickness of the walls.
- 1.5 The revised scheme continues to propose a 3-storey rear gable projection, and adopt the undercroft feature of the existing dwelling to create level access from the dwelling to the lower garden. As originally proposed the dwelling would appear 3-storey from the south (rear) elevation, and 2 storey from the north (front), which reflects the existing appearance of the house.

- 1.6 The accommodation remains as previously proposed with the ground floor providing a kitchen, hall, living room, utility, store and plant room. The first floor would have a galleried landing as its central feature, with level access onto the parking area. Accommodation at this level would comprise two ensuite bedrooms and a study. The second floor accommodation, within the roof space and front and rear gable projections, would provide two further bedrooms, a bathroom and a study area. Both the existing dwelling and the proposed replacement would contain four bedrooms.
- 1.7 In terms of the proposed siting of the replacement dwelling the side elevation would be set away from the side boundary with no. 40a Dinham, Camp Lane and set back in the plot, by some 6.2metres from the frontage. The stone wall boundary treatment to Camp Lane would be retained and extended to maintain this form of enclosure to the lane.
- 1.8 A structural report commissioned on behalf of the applicant on the existing dwelling indicates that there is evidence of cracks that have been developing in recent years, although these cracks are not currently of great structural concern. The existing house is built into the stone roadside wall. This has long term implications for damp ingress into the house due to the water from the road/stone wall coming through to inside. The agent contends it would be difficult and expensive to upgrade the existing house to modern energy standards, and to improve access.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the edge of the open countryside and is in the Ludlow Conservation Area. The development boundary excludes the curtilage land of The Lodge. The house was built circa.1930 on the site of the Coach House to Maryvale House. The existing house has an Arts and Crafts era design.
- 2.2 The site falls within a landscape character which is one in which the landscape is largely dominated by settlement and existing development on the edge of the development boundary. Nevertheless, open views across the river are also a feature which the policy guidance seeks to maintain, within the Conservation Area and the adjacent open countryside.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council has objected and requested that the application be presented to the Planning Committee for consideration. The Principal Planning Officer, in consultation with the Committee Chairman and Vice Chairman consider that the Town Council has raised material planning issues and the application should be determined by committee.

4.0 Community Representations

NOTE: The responses set out below relate to the scheme as considered at the planning committee on the 01st March 2016. Given the amendments are in response to Member concerns regarding the detailing and design of the scheme, it is not considered necessary in this case for any re-consultations to be carried out on the revised proposals.

4.1 Consultee Comments –

4.1.1 Ludlow Town Council –Object:

The proposal will have a significant detrimental impact on the Conservation Area, including non-designated and designated heritage assets.

4.1.2 SC Drainage - comment:

No objection, subject to condition.

4.1.4 SC Affordable Houses – comment:

Replacement dwellings are exempt from the need to contribute to affordable housing as per the SPD Type and Affordability of Housing.

4.1.5 SC Conservation – comment:

The Conservation Officer is now satisfied with the principle aspects with the design such as the use of render and timber which reflects that of the existing 1920's building. Whilst the overall scale and footprint of the new dwelling will be greater than the existing building, it is considered that it is proportionate in relation to its overall curtilage plot. During discussions with the applicant and architect some minor alterations to the southern elevation are necessary as to reduce the glazing on the proposed southern elevation, mainly that of the first floor balcony window which should be reduced in width as well as removing the balcony feature, though a plain glazed balcony may be acceptable. This should allow a better hierarchy of window articulation from the ground floor moving upwards.

4.1.6 Historic England – comment:

The form and suite of materials of the existing house has been employed to inform the design of the proposed new house. In order to justify a replacement within the Conservation Area it will be necessary to secure a high quality design that employs high quality materials so that the new house can make an architectural contribution to the Conservation Area such that the character and appearance of the Conservation Area is enhanced. The replacement building should therefore not be of disproportionate scale to that which exists on the site presently, and the ridge line should be meaningfully lower than that of the existing building, so that views into and out of the Conservation Area are enhanced. Consideration of appropriate traditional materials should be made, based upon a study of local vernacular architecture, including brick and timber. We are not convinced that extensive painted render panels are appropriate to this setting. We also recommend that the Historic Environment Good Practice in Planning note 2, 'Managing Significance in Decision-Taking in the Historic Environment', issued on March 25th 2015 is considered in coming to your decision.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not

necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

4.1.7 Ludlow Conservation Area Advisory Committee – comment:

The proposal would have a detrimental impact on the character and appearance of the Conservation Area because of its scale, massing and detailing. The scale of the proposal is justified by comparing it with the existing property and its neighbours. However, the proposal is considerably bigger than either the existing or any other property in the road. The justification for this in the application does not deal with the fundamental points that the apparent scale, because of its massing and more prominent siting, will be very substantially greater than the existing property and that the neighbouring property is very far from one to be emulated. The layout of the windows and other detailing will make the proposal look like an overgrown housing estate property. The pity is that this is a very rare opportunity for a work of modern architecture that will compare in quality with the glories of Ludlow's past something potentially award-winning. What is offered is a proposal of the utmost banality.

4.1.8 SC Ecology – No objections subject to conditions and informatives regarding bats and the active nests of wild birds and completion of tests 1 and 2 on the European Protected Species 3 tests matrix;

- Public Comments:

4.1.9 3no. responses; one person says the building below road level would improve view of the Whitcliffe and still maintain privacy; two other persons have concerns about the effect on parking on the road outside the site during the construction works.

5.0 THE MAIN ISSUES

Principle of Development

The impact upon the visual amenities of the Conservation Area and open countryside

Living conditions

Biodiversity

6.0 OFFICER APPRAISAL

6.1 Principle of Development

6.1.1 S38(6) of the Planning and Compulsory Purchase Act, states LPA's must determine applications in accordance with the local plan unless material considerations indicate otherwise. It means decisions must comply with the development plan as a 'whole.'

6.1.2 Shropshire Core Strategy policy CS3 relates to Market Towns and other key centres, and identifies Ludlow as a focus for development, whilst respecting its historic character. The existing Lodge dwelling falls within the Ludlow Development boundary in the adopted Site Allocations and Management of Development (SAMDev) Plan, but the bulk of its grounds are outside of the Development boundary. There is no in-principle planning policy objection to the erection of a replacement dwelling on the site of the existing dwelling. In this case the proposed replacement dwelling would be partly on the foot print of the existing dwelling, but

the bulk of its foot print would straddle the line of the Development boundary shown in the SAMDev Plan. However given the overlap and the site of the proposed dwelling being existing residential development, it is considered that there is no in-principle planning policy objection to a suitable replacement dwelling. The consideration of this proposal therefore is focused on an assessment of the detailed considerations set out below.

6.1.3 The Government attached great importance to the design of the built environment (Section 7 of the NPPF). Policy CS6 (Sustainable Design and Development Principles) of the Core Strategy and MD2 of SAMDev sets out the criteria that development will be assessed. Policy CS6 of the Core Strategy refers to, amongst other things, creating sustainable places; high quality design which respects and enhances the local context and character of the area; protects, restores and enhances the natural, built and historic environment; and energy efficiency. The site is within the Ludlow Conservation Area where there is a duty for local authorities under section 72 the Planning (Listed Building and Conservation Areas) Act 1990 to have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising statutory functions. There is a similar obligation under section 66 of the same Act to have special regard to the desirability of preserving listed buildings or their settings, or any features of special architectural or historic interest they possess, in exercising the planning function. Core Strategy policy CS17 and SAMDev Plan policy MD13 accord with this requirement. The impact of the proposed development on the Conservation Area is considered below.

6.2 The impact upon the visual amenities of the Conservation Area and open countryside.

6.2.1 SC Policies CS6, CS17 and MD2 outlines, amongst other things high quality design in context. The thrust of one of the core principles of NPPF is that planning should always seek to secure a good standard of amenity for all existing and future occupants of property. Whilst the increase in floor space (60%) is one measure to assess the size of a building, another is its mass and volume. The landscape impact requires careful evaluation of the proposal's scale and visual (appearance) assessment on the quality of the local landscape.

6.2.2 In terms of 'layout,' the proposed house would be set back from the road. It would sit comfortably set further to the rear. Situated adjacent to the application site is a large detached dwelling no.40a. The new house would project backward of this neighbouring house. As a result of the spacing that would exist between the new house and 40a next door it would not appear cramped on the large plot on which the replacement house would be located.

6.2.3 The scheme as previously considered proposed a ridge height around 0.27m lower than the existing dwelling, the revised scheme proposes to lower the height further so the dwelling would sit approximately 0.7m below the ridge of the existing. The further reduction would help reduce the massing of the building when assessed against its context alongside the existing properties within the area.

- 6.2.4 Visual amenity includes design. In addition to the reduction in overall height the revised scheme also proposes amendments to the fenestration detailing in particular to the west and east elevations, altering the openings in these side elevations to be more reflective of the openings on the rear elevation and of the existing dwelling, in particular widening the openings to introduce the vertical mullions which are considered a strong feature of the existing dwelling. The scheme also proposes the reduction of the eaves projections to match that of the existing dwelling.
- 6.2.5 One of main amendments to the scheme as previously considered by committee members is the alterations to the materials. The revised scheme removes the previously proposed facing brick from the east projection, and seeks to use stone and roughcast render throughout. The treatment of the side elevations is proposed to be less formal than the front and rear, opting to use a more irregular pattern between the stone and render rather than continue the straight break on the rear elevation. This alteration in pattern contributes visually towards breaking up the appearance of these side elevations, softening their appearance. The applicant's agent also advises that the finished colour of the proposed render is proposed to be a 'lichen' grey/green rather than the use of a lighter colour such as the pale yellow of the existing dwelling. The imposition of a condition regarding the materials to be used in the construction would also help to ensure that the design style is of a high standard and the proposed house would make a positive contribution to the character and appearance of the Conservation Area.
- 6.2.6 The amendments set out under the revised scheme combine to result in a scheme which reflects both the main characteristics of the existing dwelling and the wider local vernacular.
- 6.2.7 There are open views from the rear of the site. The siting against a landscaped backdrop to the river would not appear as an intrusive feature on the edge of the development boundary. However, the extensive garden and the undeveloped nature of the site create an attractive transition between the existing dwelling and the adjacent open countryside, although the degree of visibility will vary on a seasonal basis with thickness of the vegetation. The views are open, rural in character in between the house and the river.
- 6.2.8 The key test is not the effect of the proposal on the site itself but on the surrounding area. The proposal is relatively well contained within the landscape and the change in the views would be limited in character, with public vantage points identified from the road and along the public footpath which runs alongside the river, from where the development would be in character with the existing built context. However, given the distance between the replacement house and the river, and because of its scale and appearance, it is considered the views of the proposed dwelling would not have an adverse impact on the landscape and scenic beauty in relation to the receptor locations.
- 6.2.9 In overall conclusion on the second main issue, the proposed development is of the highest quality design and would not have a detrimental impact in terms of the preservation or enhancement of the character and significance of the Conservation Area, and protection of the open countryside, in accord with policies CS6 and CS17 of the Core Strategy and MD2 of the SAMDev Plan.

6.3 Living Conditions

- 6.3.1 Core Strategy policy CS6 seeks to safeguard residential amenity. Design should be appropriate in itself and in relation to adjoining properties. In terms of 'siting' the new house would project backward of the neighbouring dwelling to the north (40a). Space would exist between facing flank walls, and there is currently space between the existing side elevation of 40a and the common boundary with the application site.
- 6.3.2 Given the orientation of the sun and the size and the location of the proposed house, it is considered that the distance between it and the neighbour's south facing rear garden/ east facing side elevation would be sufficient to ensure there would be no significant loss of 'light' to this neighbouring property.
- 6.3.4 In terms of 'privacy,' there would be a balcony at 1st floor level in the rear elevation. It is considered there would be no opportunity for direct overlooking from this balcony, and the distance between the flank walls would ensure no mutual loss of privacy in terms of overlooking and outlook. The amenities of residential properties on the opposite side of Camp Lane would not be significantly affected as, from their viewing perspective, the proposed replacement dwelling would sit lower in the street scene.
- 6.3.5 For these reasons, it is considered the proposed development would not significantly impact on neighbour amenity. As a result there would be no conflict with this element of policy CS6 of the Core Strategy.

6.4 Biodiversity

- 6.4.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible.
- 6.4.2 The EC Habitats Directive 1992 only allows disturbance, or deterioration or destruction of breeding sites or resting places in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is no satisfactory alternative and no detriment to the maintenance of the species population at favourable conservation status in their natural range
- 6.4.3 The Protected Species Survey report conducted by John Morgan (July 2014), identified a maximum of three bats all identified as most likely to be Common Pipistrelle exiting from two area of the roof of the existing dwelling. As such works to demolish the building will be required under a European Protected Species Mitigation Licence from Natural England. Consideration of the three tests is set out in the matrix attached as Appendix 2 to this report.

6.4.4 The conclusion of the matrix assessment is that the development is in the public interest, there is no satisfactory alternative and the proposal will not be detrimental to the maintenance of the population of Common Pipistrelle bats at a favourable conservation status provided conditions are imposed required a licence from Natural England, the implementation of mitigation measures and a plan of proposed lighting.

7.0 CONCLUSION

7.1 There is considered to be no in-principle planning policy objection to the erection of a replacement dwelling in this location. The proposal, in terms of size, scale, design, materials and character would not detract from the character or appearance of the Conservation Area and its setting. The residential amenities of adjacent properties and the locality would not be unduly harmed by the proposed development.

8.0 Risk Assessment and Opportunities Appraisal.

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy policies:
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS17 – Environmental Networks

SAMDev Plan:
MD2 - Sustainable Design
MD12 – Natural Environment
MD13 – Historic Environment
S10 – Ludlow Area

RELEVANT PLANNING HISTORY:

SS/1/01/12188/LB Erection of a porch, alterations to dwelling, and alterations to vehicular access. PERCON 9th July 2001
SS/1/01/12187/F Erection of a porch, alterations to dwelling, and alterations to vehicular access. PERCON 9th July 2001
SS/1/04/16407/LB Installation Of A Satellite Dish. PERCON 13th December 2004
SS/1/00/11552/TC Felling of trees. NOOBJ 16th November 2000
SS/1/00/11548/CA Demolition of conservatory and garage. PERCON 16th November 2000

11. Additional Information

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NNBQE4TDK0800>

List of Background Papers

Design and Access Statement
Biodiversity Survey and Report
Heritage Statement
Structural Survey

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Andy Boddington

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 – European Protected Species Three Tests Matrix

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

1. The development hereby permitted shall begin no later than three years from the date of this decision.

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

2. The development hereby permitted shall be carried out strictly in accordance with the approved plans and drawings numbered 3b(block plan); 04 (floor plans) and the revised elevation drawing received by the Local Planning Authority on 04th April 2016 .

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

3. Development shall not commence until a European Protected Species (EPS) Licence with respect to bats has been obtained for the proposed work. Work shall be carried out in accordance with the Protected Species Survey report conducted by John Morgan (July 2014) attached as an appendix to this planning permission. A copy of the granted EPS licence and accompanying documents should be supplied to the local planning authority prior to the commencement of works on the site.

Reason: To ensure the protection of bats, a European protected Species.

4. A total of 3 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to commencement of works as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

5. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use.

Reason: This information is required before the commencement of development, to ensure satisfactory drainage of the site and to avoid flooding.

6. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walling, including the finished colour of the render 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.

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

7. Before the development is commenced there shall be submitted to and approved in writing a scaled plan showing cross sections through the site which show the existing land levels and proposed land levels together with the finished floor levels the proposed dwelling and garden. Once these details are approved the development shall be carried out in accordance with the agreed details unless otherwise agreed by the Local Planning Authority.

Reason: To ensure a satisfactory relationship between the development site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development and the amenities of neighbouring properties.

8. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological interest of the site is properly safeguarded and recorded.

9. No development shall be commenced until full details of landscape works have been approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

Planting plans;

Written specifications (including cultivation and other operations associated with plant and grass establishment);

Schedule of plants, noting species, planting sizes and proposed number/ densities where appropriate; and

Implementation timetables.

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

10. All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting and seeding season following the completion of the development or in accordance with a timetable which has been approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years from planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

11. Prior to the first use of the development hereby approved 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

12. A scheme for making good any damage/scarring of the roadside boundary wall revealed by the demolition work shall be submitted to and approved in writing by the Local Planning Authority within one month of the demolition. The works relating to the scheme shall be carried out in accordance with the approved details.

Reason: To ensure that the character and appearance of the Conservation Area is maintained.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, or modifying the Order), no extensions or enlargement of the dwelling hereby permitted shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenity.

INFORMATIVES

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers Document. It is available on the Council's website at: flooding/flood- risk- management - and- the - planning - process. The provisions of the Planning Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow the rain water to soakaway naturally. Connection of new surface water drainage systems to existing drains/ sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not available.
2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.
3. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

4. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

APPENDIX 2**EUROPEAN PROTECTED SPECIES – Consideration of the three tests**

Application name and reference number:

15/01819/FUL
 The Lodge
 Camp Lane
 Ludlow
 Shropshire
Erection of replacement dwelling following demolition of existing

Date of consideration of three tests:

12th April 2016

12th April 2016

Consideration of three tests carried out by:

Nicola Stone
 Planning Ecologist

Heather Bradley
 Technical Specialist Planning Officer

1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

The development involves the demolition of an existing dwelling which is falling into a visible state of disrepair with cracks identifiable on site, the structure report and photographs accompanying the application site illustrate the depth of the structural problems and that the work to repair the defects would be costly resulting in its demolition being the more economically viable solution.

If the dwelling is left as it is it will result in the further deterioration of the building, potentially risking the health and safety of the current and any future occupiers. Further deterioration of the dwelling would not be an enhancement to the character or appearance of the Conservation Area in which it sits.

2 Is there ‘no satisfactory alternative’?

The alternative will be to not carry out the demolition, the dwelling is falling into disrepair and it is not financially viable to repair the dwelling. If the dwelling is not demolished it risks being left to deteriorate further and become unfit for use. This would not be satisfactory for the reasons set out above.

3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

There was evidence of 3 Pipistrelle bats roosting within the building to be demolished as recorded by the Protected Species Survey report conducted by John Morgan (July 2014).

An EPS licence in respect to bats must be obtained before any demolition works can commence. This will stipulate appropriate timings of demolition works and mitigation for the loss of roosting places. It is anticipated that the timings will be mid-March to beginning of June and mid-September to end October, with mitigation being 3 Schwegler 1FD bat boxes attached to local mature trees within the garden prior to the commencement of works on site. Access to ridge tiles at a minimum of three places within the roof of the replacement house will also be provided. External lighting around the site will be of the 'down lighting' type and will not light up the sky around the buildings, or any bat access points.

The proposed development will not be detrimental to the maintenance of the populations of Pipistrelle bats at a favourable conservation status within their natural range provided that the following conditions detailed in the response from Nicola Stone to Heather Bradley dated 12th April 2016 are on the decision notice and are appropriately enforced:

The following conditions should be on the decision notice:

1. Development shall not commence until a European Protected Species (EPS) Licence with respect to bats has been obtained for the proposed work. Work shall be carried out in accordance with the Protected Species Survey report conducted by John Morgan (July 2014) attached as an appendix to this planning permission. A copy of the granted EPS licence and accompanying documents should be supplied to the local planning authority prior to the commencement of works on the site.

Reason: To ensure the protection of bats, a European protected Species

2. Prior to the first use of the development hereby approved 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.

3. A total of 3 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to commencement of works as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

Informative

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

Guidance for filling in the EPS form

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

1 Is the purpose of the development/damaging activity for '*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*'?

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure (e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

2 Is there no satisfactory alternative?

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

3 Is the proposed activity '*not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range*'?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.

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Committee and date

South Planning Committee

26 April 2016

Development Management Report

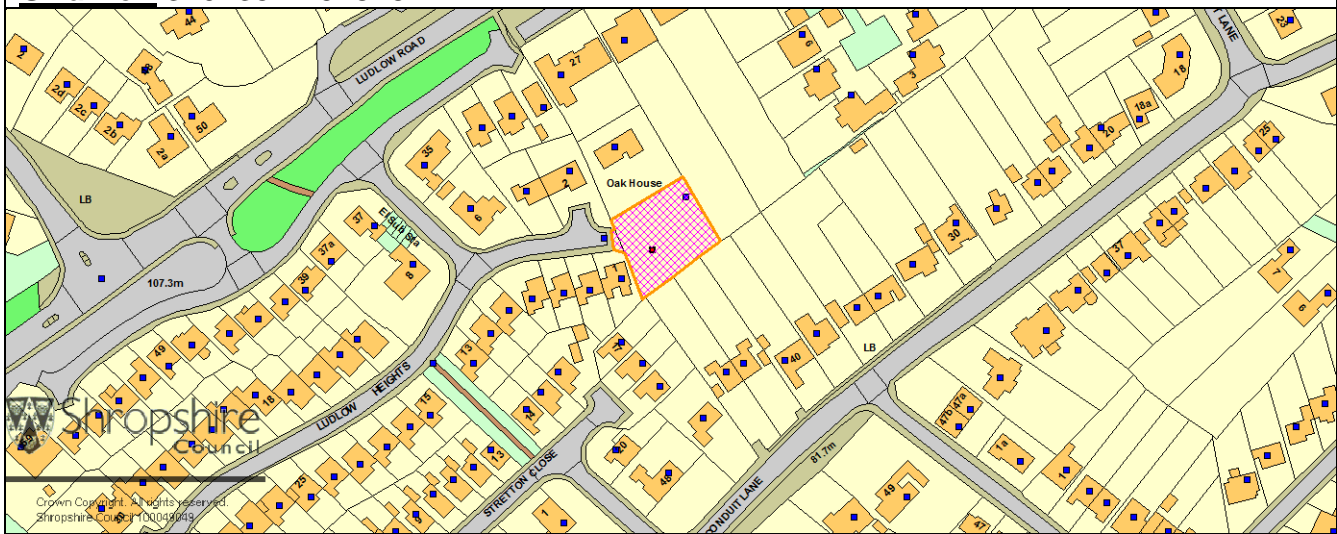
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04296/FUL	Parish:	Bridgnorth Town Council
Proposal: Erection of two storey dwelling with parking.		
Site Address: Proposed Dwelling To The East Of Ludlow Heights Bridgnorth Shropshire		
Applicant: Mrs Jayne Roberts		
Case Officer: Mandy Starr	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 370735 - 292876



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Recommendation: - Refuse

Recommended Reason for refusal

By reason of its location and siting the proposed development would prejudice the retention of the prominent oak tree at the site which is protected by The Salop County Council (Ludlow Road Bridgnorth) TPO 1974 due to the likely pressure from the occupants of the proposed dwelling for work to be carried out to safeguard their amenity and safety. The amenity and safety of the proposed dwelling to this oak tree would be impacted upon by the overbearing presence of the tree within their garden area along with a substantial degree of overhanging branches and the amount of detritus discarded by a tree of this size and maturity. The high probability of loss or erosion by way of lopping/pruning/felling of this high value amenity and natural asset provided by this tree would not protect or enhance local distinctiveness. In addition the siting of the proposed dwelling so close to the proposed southern boundary of the site on a raised platform would result in likely pressure to have the existing third party owned Leylandii hedge lopped or removed to provide solar gain to the proposal which in turn would result in a material loss of amenity to the occupiers of both 17 Stretton Close and 44 Conduit Lane. The proposal would therefore be contrary to the NPPF, CS6 and CS17 of the Core Strategy and MD2, MD3 and MD12 of the Shropshire Sites Allocations and Management of Development (SAMDev) Plan.

REPORT**1.0 THE PROPOSAL**

- 1.1 The proposal is to erect a detached two bedroom chalet bungalow with an associated parking area for two vehicles on land to the south of a recently built dwelling known as 2A Oak House which is to the east of Ludlow Heights in what was originally part of the rear garden of No 27 Ludlow Road. Access to the dwelling would be via a shared access that currently leads to No 2A off Ludlow Heights that was granted permission under 10/03744/FUL and has been completed.
- 1.2 The submitted plans show that the new dwelling would be constructed on top of an artificially raised landscaped terrace to be constructed from layers rolled topsoil subject to a formal specification that would be built to the southwest of the site above the existing ground level in order that an existing mature oak tree that is the subject of a Tree Preservation Order would have its root protection area/canopy protected from the development.
- 1.3 The proposed dwelling would be constructed from through-colour render blockwork and some hardwood cladding with brick detailing beneath a concrete plain tiled roof. It would have a footprint of 54m². The height to the ridge when viewed from the east on the raised terrace would be 7.16m and to the eaves 3.4m. The proposed dwelling would provide a dining kitchen, hall, wc and living room on the ground floor, with two bedrooms and a bathroom at first floor level. The first floor accommodation would be within the steeply sloping, dual pitched roof and would be lit by windows in the north and south facing gable elevations, and by a dormer and rooflight on the east elevation. A monopitch canopy porch would be positioned over the front door on the east elevation, and would be a continuation of the main roof plane. The proposed roofing material would be concrete plain tiles, with the external walls rendered. Timber cladding would be a design feature to the dormer,

canopy porch and above the large area of glazing proposed for the north elevation. Foul sewage is indicated to be disposed of to a main sewer and surface water to a soakaway. To the north of the dwelling above a retaining wall would be 2No car parking spaces to be constructed from imported stone rolled in layers with pavements above.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is on an area of land of some 0.08ha that is sited at the end of double row of 1960's chalet bungalows on land to the south of Ludlow Road. The nearest dwelling is No 1 Ludlow Heights which faces roughly north/south in direction. Beyond these dwellings to the east is the remains of domestic garden for No 27 Ludlow Road and which contains a large mature oak tree. To the north of the tree is a recently permitted bungalow known as 2A Oak House which is reached via a paved driveway off Ludlow Heights.

2.2 The submitted red edging shows that the application site would include much of the canopy of the existing mature oak tree giving the site approximate dimensions of 31.5m wide by 26m deep with the dwelling to be sited in the southwest corner of the approximately rectangular site. Apart from the oak tree whose canopy takes up much of the proposed garden area, there is a small row of semi-mature Leylandii to the south of the site that forms the rear garden party boundary with 44 Conduit Lane. Beyond these trees is fencing that forms the rear garden boundary of No 42 Conduit Lane. To the east of the site beyond the oak tree is the picket fencing forming the garden boundary with No 25 Ludlow Road a property that has its access off Ludlow Road itself. Whilst to the north there no defined boundary to 2A Oak House except that it shares part of the canopy area for the oak tree. To the west of the site for the proposed dwelling is the boundary for No 1. It should be noted that this dwelling is higher than the application site with a retaining wall with fencing along its eastern boundary.

2.3 To the north east of the proposed dwelling is the large oak tree that is the subject of a Tree Preservation Order. The tree canopy is extensive. It is a tall specimen and is visible from some distance away in particular from the south west approach from Ludlow Road which is at a higher level. In addition the upper parts of the tree are visible above the adjacent roofscapes.

2.4 This proposal is within the Key Centre to the west of the Town Centre and is accessed off the Ludlow Heights development off Ludlow Road. The area is characterised by a mix of larger detached properties with long gardens and smaller dwellings and semi-detached properties with more modest gardens such as the Ludlow Heights development which are predominantly chalet bungalows with small plots which are positioned close together.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is considered to raise material considerations and has a recent planning history which, in the view of the Area Planning Manager in consultation with the Chair and Vice-Chair, would warrant consideration of this proposal by the South Planning Committee.

4.0 **Community Representations**

Consultee Comments

- 4.1 **Bridgnorth Town Council:** Recommend refusal to planning application 15/04296/FUL on the grounds of overdevelopment of the site, concerns over potential damage to the Oak Tree and the impact on the natural environment and ecology.

4.2 **SC Highway Authority**

The proposed development is unlikely to significantly increase vehicular activity, on this residential cul-de-sac. The site is currently served by an existing private drive to one dwelling at the termination of an existing established residential street (unclassified road).

This access is considered acceptable in its current form to accommodate this proposed additional dwelling and associated vehicular activity. No objection

- 4.3 **SC Arboricultural Officer** (*Amended comments following submission of revised Tree Condition Report received 15th February 2016*)

I have read the information provided in the most recent tree report (Forester and Arborist Services Ltd, 15.1.2016) and wish to provide further comments as regards arboricultural aspects of this application.

In this regard, whilst I consider that the dwelling itself has been appropriately designed in terms of its size and position and orientation of main windows in relation to the tree, I have concerns as to the overbearing size and dominance of the tree compared to the relatively small size of the garden area to the side of the house.

My earlier consultation response to the current application (2nd November 2015) was based on the premise that the principle of the proposed dwelling had been established by a previous planning officer's pre-application response. On further consideration, in light of the Inspector's comments highlighted above and the adoption of the SAMDev Plan on 17th December 2015, which strengthened the Council's environmental and land use policies, I feel I must revise my opinion and object to the current application on arboricultural grounds.

SC Arboricultural Officer

(*Original Comments*)

I have reviewed the arboricultural information submitted in association with this application and consider it to be consistent with the information and consultation response provided to the preapplication enquiry.

I therefore have no objection to the proposed development, providing appropriate precautions are taken to protect the oak tree from damage during construction, should permission be granted, as per the tree report (Terry Merchant, 28.7.2010). The Tree Protection Plan will need updating, so that it is based upon an accurately scaled final layout and also takes account of any changes to the condition or status of the tree and hedge cover on / adjacent the site, since the tree report was originally prepared.

- 4.4 **SC Drainage** (*Revised comments following submission of revised drawings 15th February 2016*)

The proposed surface water soakaway is acceptable. If planning permission is granted then recommend condition.

SC Drainage

(Original comments)

Drainage details, plans and calculations could be conditioned if planning permission were to be granted

4.5 SC Affordable Housing

The affordable housing contribution Proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

- Public Comments

4.6 21 letters received objecting on the following grounds:

- How many times do the residents have to put up with constant planning applications for this development?
- The oak tree is 400 years old and is protected, so any proposal is likely to result in potential damage to the tree as well as applications to prune, lop and possibly fell this tree if it starts to cause loss of amenity to occupiers of proposed dwelling
- There is very limited space around the tree for the house and garden, so concern that heavy plant to be used in construction of development would impact on root protection of oak
- Who would manage the tree during the construction works?
- Development is contrary to BS5837: 2012 as the proximity of the tree in relation to the proposed dwelling is an important consideration because incoming occupiers will want to have a tree in harmony with its surroundings without casting an excessive shade or otherwise interfering with their prospects of reasonable enjoyment of the property.
- It is clear from the previous Committee meeting when a similar scheme was discussed in 2010 that the minutes state that the site would not lend itself to further development
- The Inspector's decision is very clear with regard to the possible harm to this tree from any dwelling in this location and this situation has not changed
- The applicant has not addressed the points raised by the Planning Inspector with regard to this scheme
- Extremely high amenity value of this tree and it is visible from prominent public vantage points. It is a well-recognised natural asset and cannot easily be replaced and therefore any development that would affect it would be contrary to reason why it was protected
- Proposed garden area around tree will be impacted by shading and outlook thereby causing a threat to its health and longevity.
- There was a previous application under 09/0135/TPO for a crown reduction for the sister oak tree by the residents of Ludlow Gates in order to allow for more light and they were further away from that oak tree than the proposed dwelling would be to the existing tree
- The Ludlow Heights roads are used as major access route to Castlefields and Oldbury Wells Schools thus causing conflict with

- developer traffic and increased traffic movements of new dwelling
- Access route to site is narrow so any construction traffic would have difficulty parking due to limited width
- There are bats living in the tree
- Restrictive covenants from 1967 affect this site
- Design of house is not in keeping with architecture of existing houses especially as the house has been turned by 90 degrees.
- If permission is granted what is to stop the owners of both houses seeking the removal of the tree and then applying to build more houses on the land?
- Object to the raising of the ground level as the previous applications, the ground level had to remain untouched as such development could cause damage to the roots and impact on the tree as well as impacting on the residents of Conduit Lane and Stretton Close as proposed dwelling would only be a couple of metres from boundary
- Increase in height of land would result in harmful impact in terms of being overbearing, causing shading as well as lack of privacy
- Many of the trees along the southern boundary have been removed, so new dwelling will result in overlooking
- Lives of many of the residents have already been blighted from the construction of the previous development with the builder's causing problems with occupiers of adjoining properties
- Introduction of new window in roof of No 2a without permission has resulted in loss of amenity to adjacent property
- Already have issues with drainage and foul sewer capacity in this location, so this will exacerbate it, especially to those residents who are to the south of the site.
- Backland development
- The site notice was only displayed for 15 days and put up in an obscure location
- The newly adopted SAMDev now reduces speculative development and in the case of Bridgnorth indicates that most of the housing required has now been built.

5.0 THE MAIN ISSUES

Policy Context and Principle of development

Siting, scale and design of structure

Visual Impact including analysis of Previous Appeal Decision with respect to the oak tree and landscaping

Affordable Housing

Drainage

Residential Amenity

Highway Safety

Ecology

6.0 OFFICER APPRAISAL**6.1 Policy Context and Principle of Development****6.1.1 Core Strategy**

CS1 Strategic Approach. A key objective of market town revitalisation programme to encourage, greater self-containment in terms of employment, retail expenditure and local services.

CS3 The Market Town and Other Key Centres. This policy seeks to ensure that housing development is of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure within the town's development boundaries. Bridgnorth will provide a focus for development within the constraints of its location on the edge of the Green Belt and River Severn.

CS6 Sustainable Design and Development Principles deals with sustainable design and development principles and states that development should conserve and enhance the built, natural and historic environment and be of an appropriate scale and design taking into account local character and context. It also needs to take into account the health and wellbeing of communities including safeguarding residential and local amenity and that development is designed to a high quality consistent with good practice standards including appropriate landscaping and taking account of site characteristics and ground contamination.

CS9 Infrastructure Contributions'. This policy also deals with CIL and affordable housing contributions with the appropriate levels of contributions set out in the SAMDev or in the Community Infrastructure Levy Charging Schedule at a level that is economically viable for the majority of development and this is assessed regularly to reflect changes in market prices, costs of construction and alternative land values over time.

CS11 Type and Affordability of Housing. In order to meet the diverse housing needs of the county's residents to create an integrated and balanced approach with regard to existing and new housing including type, size, tenure and affordability. This will be achieved by a number of criteria including seeking to ensure that all housing developments are designed to be capable of adaption to accommodate lifestyle changes and ensuring that new open market dwellings makes appropriate contributions to the provision of local needs housing.

CS17 which deals with Environmental Networks is also concerned with design in relation to the environment and places the context of a site at the forefront of consideration so that any development should protect and enhance the diversity, high quality and local character of Shropshire's built, natural and historic environment and it does not adversely affect the values and function of these assets.

CS18 Sustainable Water Management requires that developments will need to integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on the water quality and quantity including ground water resources and to provide opportunities to enhance biodiversity by ensuring that all developments include appropriate sustainable drainage systems (SUDS) to

manage surface water so that all development should aim to achieve a reduction in the existing runoff rate, but must not result in any increase in runoff rate.

6.1.2 **Shropshire Sites Allocations and Management of Development (SAMDev) Plan**

MD1 Scale and Distribution of Development. This policy sets out where the pattern of new housing development will be within the County; namely Market Towns and other Key Centres, Community Hubs and Community Clusters and areas where exception schemes for local needs housing is acceptable.

MD2 deals with Sustainable Development. This requires that for a development to be considered acceptable it must achieve local aspirations for design in terms of visual appearance and how a place functions as set out in local community led plans and it must also contribute to and respect local distinctive or valued character and existing amenity value by a number of specific criteria such as responding to the form and layout of the existing development and the way it functions including building heights, lines, scale etc. It must also reflect local characteristic architectural design and details. There is also a requirement to consider the design of the landscaping which responds to the local character and context of the site

MD3 Managing Housing Development. There is a requirement over the 10 year plan period until 2026 to deliver 27,500 new homes and the Council has in excess of a 5 year housing land supply Furthermore such proposals must meet the requirements of sustainable development set out elsewhere in the Core Strategy and the SAMDev.

MD12 Natural Environment. In connection with other associated policies seeks to apply guidance of the conservation, enhancement and restoration of the county's natural assets which will be achieved by ensuring that the social and economic benefits of the development can be demonstrated to clearly outweigh the harm to the natural assets where proposals are likely to have an unavoidable significant adverse effect, directly or indirectly or cumulatively on any of the following: locally designated biodiversity sites; priority species and habitats; woodlands, trees and hedges and landscape character and local distinctiveness. In these circumstances a hierarchy of mitigation then compensation measures will be sought. There is also a need to encourage development which appropriately conserves, enhances, connects, restores or recreates natural assets particularly where this improves the extent or value of these assets are recognised as being in poor condition. Finally there is a need to support proposals which contribute positively to special characteristics such as adjacent high priority biodiversity areas.

6.1.3 Settlement Policy S3 for the Bridgnorth Area seeks to deliver 1,400 dwellings in the Plan Period through a mix of allocated and windfall sites.

6.1.4 The proposed site falls within the Market Town of Bridgnorth and there is no in-principle planning housing policy objection to the erection of new-build open market housing within the Town development boundary. The acceptability or otherwise of this proposal therefore turns upon consideration of the detailed matters discussed below.

6.2 Siting, Scale and Design of Structure

- 6.2.1 The proposed dwelling would be sited in the southwest corner of the former garden of No 27 Ludlow Road and be erected on a raised and curved platform terrace to take account of the spread of canopy of the tree and its root protection area. The terrace would extend right up to the existing paved driveway leading to No 2A to the north of the proposed dwelling and it would run round to the southwest corner of the site but be set physically away from the party boundary with No 17 Stretton Close and 44 Conduit Lane.
- 6.2.2 It should also be noted that the existing garden area gently slopes to the south, so at present the trunk of the oak tree is at 98.10m whereas the south east corner of the site is 97m giving a 1.1m drop across the site. Towards the west of the site at the entrance to the existing driveway the level is measured at 100.23m, whereas the southern boundary adjacent to the row of conifers has a level of 98.02m. This shows that the level change here is 2.21m.
- 6.2.3 The proposed raised terrace would extend from the existing driveway off Ludlow Heights and would be 16m in length with a maximum width of 13m. Due to the sloping site, the depth of the terrace is greater to the south than to the north of the site. It would have a 30 degree batter and would be grassed to have a similar appearance to the bank that supports the access drive to No 2A. A set of steps would be built in front of the dwelling leading down to the garden area. The two parking spaces would be provided to the south of the existing access drive just to the north of the proposed dwelling.
- 6.2.4 The proposed dwelling would have a footprint of 52m² and a gross floor area of 104m² providing for a front porch, hallway, living room, downstairs WC, open plan kitchen and dining room with utility space in cupboards at the rear. At first floor would be two bedrooms and a bathroom. Although the dwelling would have its principle elevation facing east over part of the canopy of the mature oak tree, the main windows would actually face north being for the living room and bedroom 1. The other elevations would have minimal fenestration.
- 6.2.5 The proposed chalet bungalow would have a ridge height of 7.16m as viewed from the principal elevation facing east on the terrace, but 8.42m when viewed from the original ground level. The eaves height from the terrace would be of 3.4m high, whereas from the original ground level would be 5.3m high. However on the southern elevation which would be sited on a deeper part of the platform, the overall height of the dwelling taking into account the height of the terrace would result in the dwelling being some 8.2m high with eaves of 5.3m.
- 6.2.6 The submitted drawings show that the extent of the slope of the proposed terrace would extend to within 800mm to the boundaries with 17 Stretton Close and 44 Conduit Lane which would then abut the root protection area of the existing line of Leylandii trees that form the boundary treatment here. Moreover there would be only be 1300mm between the side of the dwelling and the end of the terrace, so the dwelling would only be 4m away from the party boundary.

- 6.2.7 The west facing elevation of the proposed dwelling would face the existing side elevation of No 1 and its side boundary where there are no first floor windows. There would be a separation distance of 2.7m being provided between the two dwellings. It is also important to note that No 1 Ludlow Heights is substantially higher than the application site as there is a retaining concrete wall and fence panels between the two. The submitted plans indicate that the new built up terrace would reduce the height difference between the two sites to that of only 600mm instead of some 1.8m as existing. It should be noted that No 1 is within the applicant's ownership.
- 6.2.8 As for the distance between the proposed dwelling and protected oak tree canopy this would be between 8.5m and 20m away due to the position of the canopy in relation to the proposed dwelling. Apart from the space beneath the oak tree's canopy, there is smaller area to the south and east that measures roughly 18m by between 4.5m and 11m that would not be affected by the oak tree.
- 6.2.9 Notwithstanding the issue regarding the protected oak tree that will be considered below, the proposed dwelling design is considered to be acceptable here in terms of its design and scale: It would provide a contemporary design of dwelling in the same character as the existing residential units in Ludlow Heights with its steeply pitched roof line and dormer.
- 6.2.10 However there is an issue that has now been made clear from the submission of the revised block and levels plans which shows that there would only be some 600mm beyond the dwelling to the edge of the terrace due to the constrained nature of the site thereby limiting the outlook from this room and any patio area for the occupants. It is clear that this would result in the dwelling that would be cramped and out of character with the established grain of both Ludlow Heights and No 2A Oak House
- 6.3 Visual Impact including analysis of Previous Appeal Decision with respect to the oak tree and landscaping**
- 6.3.1 The submitted drawings also show that both the application dwelling and No 1 would in addition to having steeply sloping roofslopes have similar ridge heights, so that when viewed from Ludlow Heights, the dwelling would have a similar appearance and limited visual impact.
- 6.3.2 Turning to the proposed development in relation to the protected Oak tree, the Council's Tree Officer originally took the view that the proposed dwelling had been designed as such as to successfully integrate with the nearby protected mature oak tree in terms of its size and position as well as the layout of the main windows and levels of the development platform.
- 6.3.3 He also took the view that any approval granted should be on the condition that the rise in site levels to the desired construction platform for the dwelling and parking area is achieved by the importation of appropriate material into the site, rather than cut and fill from elsewhere within the site, be that within the Root Protection Area of the oak tree or outside it. This because that the lowering of the ground levels around the tree, for example on land destined to form the garden for the new dwelling, would tend to increase the perception of height and overbearing

dominance of the oak tree. This should clearly be avoided, given the importance of achieving a successful relationship between tree, dwelling and residents.

- 6.3.4 However following the submission of the recent Revised Tree Condition Report (Forester and Arborist Services Ltd 15.1.2016) the Council's Tree Officer has reconsidered the facts and has now changed his view with regard to the scheme following the assessment of the new Tree Report.
- 6.3.5 The tree report recognises that surgery works have been undertaken as previously recommended to the protected oak tree (T1) since the original report was produced in 2010. The oak tree is the same height (25m) but has increased in stem diameter by 5cm (to 159cm dbh (diameter at breast height) and radial crown spread to the south by 40cm (to 13.4m) and the west by 20cm (to 11.2m), compared to its dimensions in 2010. Nevertheless, the Root Protection Area remains capped at its maximum value of 15m radius and the tree is still a category 'A2' tree of exceptional amenity value.
- 6.3.6 With regard to the proposed construction, as the current tree report states in the Arboricultural Impact Assessment for T1, *'the base of the proposed soil batter falls outside the RPA; no strip excavation is permitted within the RPA; no raising or lowering of current soil levels by >100m is permitted within the RPA'* (It is assumed this is a typographical error and the report should actually state 100mm). For this reason the applicant's Arboriculturalist considers that it would be possible to construct the proposed dwelling without causing physical damage to the protected oak tree T1; given appropriate precautions and controls during implementation of any approved development, as described in the Method Statement in the tree report. Further details would still need to be provided to ensure that this would be the case, with regard to the means of construction and location of any drainage features, excavations for which could damage the roots of the tree.
- 6.3.7 However, it is important to note that the construction of the dwelling is only **one** factor and of equal consideration is the need to achieve a successful juxtaposition of tree and dwelling, so that future occupants can have a reasonable enjoyment of their property and can live in harmony with the protected tree. In this regard, whilst it is considered that the dwelling itself has been appropriately designed in terms of its size and position and orientation of main windows in relation to the tree, there is concerns over the overbearing size and dominance of the tree compared to the relatively small size of the garden area to the side of the house.
- 6.3.8 This issue was specifically addressed by the Inspector during the appeal to a previous planning application to build 5 dwellings, including one (plot 5) in approximately the same location as the currently proposed dwelling (planning ref: 12/00412/FUL; appeal ref: APP/L3245/A/13/2190478). The appeal was dismissed and in his decision of 3rd October 2013 the Inspector stated at paragraph 11 his concerns regarding plot 5:
'Although south-west of the tree and therefore affected by shading to a lesser degree, its side garden area would be dominated by the presence of the oak tree with a significant proportion of it being beneath the canopy...'. He went on in para.12 to highlight concerns about possible threats to continued good health and longevity of the tree arising from pressure to fell or (excessively) prune from future

occupiers. Stating *‘such pressures are likely to occur because of real householder concerns relating to restriction of light and overshadowing, dominance and perceived danger from falling limbs. This is notwithstanding any other potential issues which may arise in terms of falling debris or branches, blocked gutters, interference with underground services, or simply in relation to its overbearing presence’*.

- 6.3.9 The Inspector recognised in para.14 that the protection afforded by a TPO would enable the Council to control any future tree works, but considered that ‘it would be more difficult for it to refuse an application to cut back or even remove a tree that was threatening the safety of the occupiers or having a harmful effect on their enjoyment of the property. There can be no certainty that such pressures could be reasonably resisted’. He further stated in para.16 that pruning that stunted the appearance of the tree would diminish its amenity value and that the appearance of the surrounding would suffer as a result.
- 6.3.10 The Inspector concluded in para.17 that the proposed development was likely to lead to increased pressure to carry out works to the oak tree, which in turn may have a detrimental effect on its future appearance and life expectancy. This would conflict with policies CS6 and CS17 of the SC Core Strategy and para.118 of the NPPF. In para.24 of his Decision the Inspector stated that these conclusions represented *‘a significant, substantial and overriding objection which must be decisive’*.
- 6.3.11 Whilst the Inspector’s decision related to the original proposal to build 3 dwellings in proximity to the tree, it is considered that the conclusion remains valid and applicable to the current application for a single dwelling to the south-west. Further, since the time of the appeal, the Council has now adopted its Site Allocations and Management of Development (SAMDev) Plan and in addition to the aforementioned policies, the current application is contrary to SAMDev policy MD2: Sustainable Design and MD12: Natural Environment.
- 6.3.12 MD2 requires that development proposals need to contribute to and respect locally distinctive or valued character and existing amenity value by responding appropriately to the form and layout of existing development and the way in functions; as well as enhancing, incorporating or recreating natural assets in accordance with MD12 and considering the design of landscaping and open space holistically as part of the whole development that provides safe, useable and well-connected outdoor spaces which respond to and reinforce the character and context within which it is set which includes natural features such as trees.
- 6.3.13 Furthermore, it is consider that the proposed development could also have a negative long-term impact for the 8m high Lawson cypress hedge (H1 in the tree report) in third party ownership, running close to the southern site boundary. Whilst it is considered the hedge could be afforded mostly adequate protection from damage during construction, because it is tall and rather close to the proposed dwelling so it would take light from the southern elevation of the proposed dwelling and terrace. This then has the potential to result in a formal ‘High Hedge’ objection to the Council from future residents due to overshadowing. The hedge lies due south of the only proposed glazing (double doors) in the southern elevation of the

kitchen / dining area of the new dwelling. Given the elevated build platform, (with a floor level over 2m higher than neighbouring ground level), a reduction in height of the hedge to allow increased light to the new dwelling could adversely impact on the already diminished privacy of the hedge owners to the south.

6.3.14 The agent has now submitted a number of responses to the Council following the Tree Officer revised comments:

☐ In respect of the Inspector's comments referred to in the Tree Officer's comments, this relates to an entirely different proposal and should not be compared with the current application

- Officer's response: The Local Planning Authority has to consider the previous history of the site in all applications and especially when a previous application for residential development involves the protected oak tree that is a significant factor in the determination of the current scheme. In this case, the previous appeal inspector considered the effect of the proposal on the appearance and life expectancy of the protected oak tree as one of the two main issues in the determination of the previous scheme under 12/00412/FUL. In respect of the current design, it is acknowledged that it is carefully designed so that it does not physically encroach onto the tree, but there are other issues involved in this scheme

☐ It is not agreed that the proposal would have a relatively small garden as it is considered that the amenity space is generous by current standards for a two bedroom dwelling.

- Officer's response: On paper the amenity area appears substantial, but in reality the useable space around the dwelling is very limited and that taken with the large expanse of tree canopy, means that a viable sitting-out area, a children's play area or a vegetable garden would be really be restricted to the bottom south east corner of the site which is constrained on three sides. A reduction in the extent of curtilage by giving more to 2A Oak House would not overcome this objection.

☐ The first floor south facing window could be deleted from the scheme as it is not essential

- Officer's response: This secondary window is indicated as being obscurely glazed, but unless it was fixed, overlooking could occur and it is also shown as an escape window too; even though this would be difficult to achieve due to the limited width of the terrace outside

☐ The applicant has acted very responsibly towards maintaining the future longevity of the oak and has complied with all the requirements under the Planning Regulations. It is therefore suggested that a future agreement could be implemented to continue the management of the tree in the future.

- Officer Response: Whilst it is acknowledged that the applicant has acted responsibly in maintaining the future longevity of the oak, a future occupier may wish to undertake works that could see in the long-term the cutting back, removal of major limbs or even removal of the tree were it to affect the safety of occupiers or have an harmful effect on the enjoyment of their property. Furthermore this tree has a prominent symmetrical crown and pressure to reduce side leaders could lead to the crown becoming unbalanced thereby harming the high quality visual amenity of this important historic tree which is used to being surrounded by open garden land.

☐ It is noted that there is local objection to this scheme as happened in the previous scheme, but the Council should not be influenced by the quantity of objections. The comparisons with the approved scheme in 2010 are consistent with this scheme and therefore this should be approved.

- Officer response: The scheme referred to under 10/03744/FUL was for 2A Oak House. This is sited to the north of the tree and has a much large plot size and garden and is higher than the current application site and faces south. The relationship between the built dwelling and the tree is typical of dwellings with large trees in their garden as there is sufficient distance between the edge of the canopy and the house so as not to result in any excessive conflict between the two.

6.4 Affordable Housing

6.4.1 Core Strategy policies CS9 and CS11 require all new-build open market residential developments to make a contribution towards affordable housing. The current prevailing rate for such contributions within Bridgnorth is set at 20%. The applicant has agreed to make the required contribution in this case: This would be achieved through a legal agreement (S106) to be completed and signed should permission be granted.

6.5 Drainage

6.5.1 Core Strategy policy CS18 seeks to secure sustainable water management within developments. During the processing of the application, further details were submitted regarding the drainage of the site as concern was raised as to where the construction of a swale of some 40m² was to be sited as this was not shown on the original submitted drawings. There was also an issue regarding the location of the proposed 1050mm diameter interlinked soakaways and a filter drain to the east of the drive of 80mm diameter plastic coil to drain a 0.3m wide x 0.75m deep trench as these were not shown on the submitted plans either. These features are considered to be crucial to ensure that none of them would affect the RPA of the protected oak so that would restrict them to what is left of the small garden area beyond.

6.5.2 Following the submission of revised plan, the swale, the two interlinked soakaways and the filter drain have now been omitted and instead, a single 2.0m x 2.0m x 2.0m rubble filled soakaway would be sunk in the garden land between the steps leading to the garden area and the party boundary. The house foundations would be sunk to virgin ground. Below the slab void it would be filled with arisings as necessary. The Council's Sustainable Drainage Officer is now satisfied with the changes.

6.6 Residential Amenity

6.6.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The scheme has been designed to minimise any overlooking from the proposed fenestration. It is noted that the western elevation would have no windows at first floor or in the roofspace with only a landing window at ground floor.

6.5.2 In terms of impact from the north, it would be visible from No 2 Ludlow Heights, but it would be some 30m away so that there would be limited overlooking between the principal north facing windows and No 2's windows. Equally there would be no loss of amenity when viewed from No 2A Oak House as that would be some 35m away.

6.5.3 However the situation for the south facing elevation is different in that it would result in the potential for loss of amenity to the occupiers of No 44 Conduit Lane from the

ground floor French Doors due to the changes in levels proposed. It is clear that because of the limited extent of the terrace beyond this elevation being only 1400mm wide as well as the slab level of the proposed dwelling being 1.4m higher than the original ground level; as well as the close proximity of the proposal only being sited 4m away from the party boundary with No 44, there is the unique objection on the ground of loss of amenity caused by loss of privacy and overlooking from the ground floor French Windows into No 44's rear garden. It would appear that this loss of amenity would not be resolved by the erection of 2m high fencing along the party boundary, especially as the extent of the raised terrace's slope would clearly encroach over the Root Protection Area (RPA) of the existing row of Leylandii which could result in their loss at a later date; thereby opening up this boundary even more in the future due to the limited light levels that would occur from the position of these trees.

6.7 Highway Safety

6.7.1 Core Strategy CS6 seeks to ensure safe developments. In the context of highway safety, factors to be considered are the capacity of the local road network and access to accommodate the type and scale of traffic likely to be generated and adequate provision for parking and servicing. The Council's Highways Development Control Team are content that this the local road network and access could satisfactorily accommodate the traffic likely to be generated by an additional dwelling and there would be sufficient parking space within the application site. A refusal on highway safety grounds could not be sustained in this case.

6.8 Ecology

6.8.1 The site has been the subject of ecological surveys carried out in 2010 and 2012 (Camlad Ecology), commissioned by the applicant, in respect of other development proposals on the land. The latter report made recommendations in respect of bats (no exterior lighting directed towards the Oak Tree, nesting birds (the best period for clearance work is September to early November or mid February to early March), hedgehogs (potential hibernation sites removed from the working area before late October or left until spring, avoid the creation of hibernation habitats). Also given consideration are badgers, amphibians, reptiles, water bodies and mature trees. SC Ecology advised at that time dwellings in the vicinity of the oak tree will not significantly impact upon the trees potential to support wildlife provided that its retention and protection is ensured and direct lighting is avoided. While no new ecological survey has been submitted with this application, it is considered that conditions and informatives on any approval would remain an adequate safeguard of ecological interests on this site. These would address precautions to be taken during development to safeguard the species listed above, external lighting, and advising on the legal protection afforded to bats and nesting wild birds.

7.0 CONCLUSION

7.1 Whilst the principle of a dwelling would be acceptable in this part of Bridgnorth, this site is unique in having a substantial mature protected oak tree taking up a large proportion of the usable amenity area of the site and in close proximity to the proposed dwelling. Due to the present and future amenity provided by this prominent Oak tree, it would be contrary to the Council's adopted planning policies and to the aspirations of the Tree Preservation Order to allow further residential development that would in any way lead to the erosion of the high value amenity to

the local area provided by this tree. It is considered that the proposed development would not function well in relation to this tree not just for the short term, but over the lifetime of the development which would inevitably result in the loss or diminishing of this locally valued and distinctive natural asset. Furthermore due to the restricted size of the site to the south, there could be further pressure to remove the line of Leylandii trees that form the party boundaries with 17 Stretton Close and 44 Conduit Lane in order to open up the southern side of the dwelling to increased sunlight which would then result in material loss of amenity to these dwellings. These two issues would result in the scheme being unacceptable development. The proposed development would not satisfy the environmental role of sustainable development set out in the National Planning Policy Framework.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Core Strategy
CS1 Strategic Approach
CS3 The Market Towns and other Key Centres
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Shropshire Sites Allocations and Management of Development (SAMDev) Plan
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Managing Housing Development
MD12 Natural Environment
S3 Bridgnorth

Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

11/02114/TPO Reduction of branches and removal of all dead wood of one Oak Tree protected by Bridgnorth Council (Ludlow Road, Bridgnorth) TPO 1974 GRANT 5th July 2011

12/00412/FUL Erection of 5 dwellings following demolition of existing dwelling; formation of vehicular access (amended description) REFUSE 9th July 2012

15/00249/AMP Non-material amendment relating to planning permission 10/03744/FUL - Erection of a dormer bungalow with integral garage and creation of new vehicular access GRANT 19th February 2015

15/02210/AMP Non-material amendment relating to planning permission 10/03744/FUL - Erection of a dormer bungalow with integral garage and creation of new vehicular access GRANT 22nd June 2015

BR/95/0171 ERECTION OF A PITCHED ROOF OVER EXISTING FLAT ROOF GRANT 16th May 1995

BR/77/0068 Erection of a private double garage at the front and the use of the existing garage as a games room UNK 1st January 1977

Appeal

13/02014/REF Erection of 5 dwellings following demolition of existing dwelling; formation of vehicular access (amended description) DISMIS 30th October 2013

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

List of Background Papers Design and Access Statement Ecology Report Tree Report
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member(s) Cllr John Hurst-Knight Cllr Les Winwood

Informatives

1. Despite the Council wishing to work with the applicant in a positive and proactive manner as required in Paragraph 187 of the National Planning Policy Framework, the proposed development is contrary to the policies set out in the Committee report and referred to in the reasons for refusal, and as such it has not been possible to reach an agreed solution in this case.
2. In determining this application the Local Planning Authority gave consideration to the following policies:

National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy
CS1 Strategic Approach
CS3 The Market Towns and other Key Centres
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Shropshire Sites Allocations and Management of Development (SAMDev) Plan
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Managing Housing Development
MD12 Natural Environment
S3 Bridgnorth

Type and Affordability of Housing SPD

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Committee and date
 South Planning Committee
 26 April 2016

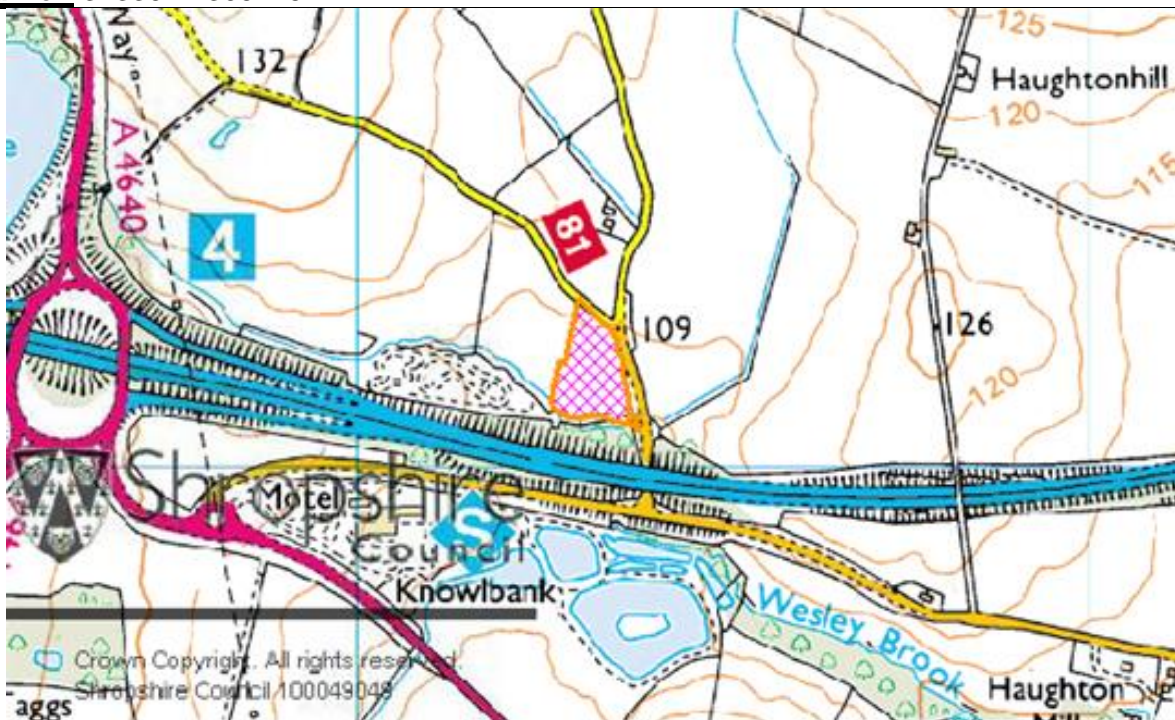
Development Management Report

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

Summary of Application

Application Number: 15/05598/VAR	Parish:	Shifnal
Proposal: Variation of Condition 7 attached to Planning Permission 10/00783/MAW, which replaced MB2001/0749/BR and SC/MB2006/1014/BR dated 29 April 2010 to increase the maximum permitted input over any 12 month consecutive period from 20,000 to 25,000 tonnes		
Site Address: Simpro Ltd Recycling Centre Woodhouse Lane Redhill Shifnal		
Applicant: Mr James Cook		
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk	

Grid Ref: 373302 - 309129



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

REPORT

1.0 THE PROPOSAL

1.1 Open air composting operations have been taking place at the site since 2005. The current planning permission (ref. 10/00783/MAW) allows for the composting of green waste at the site for a temporary period to 2020. Condition 7 of the permission restricts the amount of waste to be imported to the site to 20,000 tonnes in any 12 month period. This application seeks permission to vary condition 7 to increase the amount of waste that can be imported by 5,000 tonnes to 25,000 tonnes per year.

1.2 No other changes to the composting operation are proposed.

2.0 SITE LOCATION/DESCRIPTION

2.1 The composting site is located approximately 670 metres to the east of junction 4 of the M54 which runs at an elevated level on a tree covered embankment immediately to the south of the site. The site occupies an area of approximately 1.3 hectares in the south-east corner of an agricultural field. It is bordered to the east by a C class public highway, to the north by an unclassified public highway, and to the south by an existing access track beyond which is the Wesley Brook. Land to the west is in agricultural use.

2.2 The site is accessed from the public highway to the east, which passes beneath the M54. The nearest properties are the motorway service station and hotel approximately 230 metres to the south-west. The nearest residential properties are two dwellings approximately 450 metres to the south-east. These, and the motorway service station, are located on the opposite side of the M54 to the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The view of the Town Council is contrary to the Officer recommendation. The Local Member has requested that the application is determination by the Planning Committee, and this request has been supported by the Chairman of the South Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Shifnal Town Council** Objects.

Clarification is sought on the following points before a decision is made:-

- Environmental Agency to look at the possibility of contamination to Wesley Brook
- Highways Department to investigate the potential damage to roads with the increased traffic of heavy vehicles
- Shropshire Council to investigate the flooding and drainage implications.

Once documentation has been received by Shifnal Town Council, an informed decision will then be made.

Further comments 6 April 2016

Councillors voted unanimously to REFUSE this planning application.

No reports have been received from any Agencies and therefore, the concerns of Shifnal Town Councillors regarding this application have not been satisfactorily met.

4.1.2 **Environment Agency** No objections.

The applicant has confirmed that a Permit variation will be submitted to regularise the environmental permitting situation. In the absence of the Permit being 'twin tracked' with the planning application, we sought information to clarify whether the revised operation was appropriate for its location, in line with the NPPF, looking at the assessment of those impacts.

In considering these impacts, we note that whilst the process tonnage is to be increased, this would not involve any physical alterations at the site, the process, or the "anticipated levels of emissions". The applicant has confirmed that the operation has been carried out for many years with "no significant issues". There have been no substantiated complaints and we acknowledge that the service station (closest receptor) is approximately 250m away, with other receptors more distant (beyond 500m) with reference to emissions and amenity issues. The applicant has also included the findings from the Site Specific Bio-Aerosol Risk Assessment (SLR Consulting, December 2006). This indicates that the risk from these emissions is not considered to be significant.

We are not in a position to comment further on the Fire Prevention Plan/impacts. This would be considered in detail through the Permit variation. It is understood that this is due to be progressed over the coming weeks.

On the basis of the above, and given the Permit controls in place/through the variation, we would not raise an objection to the variation of condition no.7 attached to planning permission 10/00783/MAW in this instance.

4.1.3 **Natural England** No comments. The application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process.

4.1.4 **SC Highways** No objections. It is considered that this site already benefits from good vehicular links between the site and the principal road network, which is of sufficient capacity to accept these additional trips associated with the increased input tonnage.

4.1.5 **SC Public Protection** No objections as it is not considered likely that the increase in tonnage will result in significant odour or noise issues arising at the site.

4.1.6 **SC Drainage** No comments to make.

4.1.7 **Telford and Wrekin Council** No response.

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition 8 residential properties and businesses in the local area have been directly notified. No representations have been received.

5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design, and Green Belt considerations
- Local amenity and other considerations
- Highways and access consideration
- Flood risk, drainage and pollution considerations

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 Composting operations at the site commenced in 2005, following the granting of a temporary planning permission in 2001 (ref. MB2001/0749/BR). Subsequent to this, two further permissions were granted in 2007 and 2010, and these allowed for an extension of the temporary period and also an extension to the size and capacity of the site. The principle of green waste composting at the site for a temporary period has therefore been established through these successive permissions.

6.1.2 The National Planning Policy for Waste sets out the government's waste planning policies, and is a material consideration in determining this planning application. It states that planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. Core Strategy policy CS19 encourages proposals for additional capacity to divert waste away from landfill in a way consistent with the waste hierarchy.

6.1.3 The facility accepts green waste materials from authorities across the West Midlands, but predominantly the Telford and Wrekin Council area. The site is also able to accept waste from commercial waste producers such as landscape contractors. A substantial proportion of the composted product is used for spreading onto agricultural land as a soil conditioner to improve soil structure and moisture retention. The proposal would allow for a greater amount of green waste to be composted at the site. This would allow more locally derived waste to be composted and put to a sustainable use, consistent with the waste hierarchy. The proposal is in line with national and Development Plan policies for additional sustainable waste management provision and as such is acceptable in principle.

6.2 **Siting, scale and design, and Green Belt considerations**

6.2.1 The site is located within the West Midlands Green Belt where additional policy protection applies to development proposals. The NPPF states that when considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt. SAMDev Plan Policy MD6 states that development in the Green Belt must be able to demonstrate that it does not conflict with the purposes of the Green Belt.

6.2.2 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD14 supports the development of waste transfer, recycling and recovery facilities where, amongst other matters, the potential adverse impacts on Shropshire's natural and historic environment can be satisfactorily controlled.

6.2.3 The existing temporary planning permission has established that the composting operation as permitted is an acceptable use of land in this part of the Green Belt. The proposed increase in permitted tonnage from 20,000 to 25,000 tonnes per year would enable a greater amount of waste to be stored and composted at the site. Nevertheless it is not proposed that the permitted area of the site would be extended. Officers consider that the potential impact on the openness of the Green Belt from additional waste piles would not be significant, and as such the proposal would not conflict with Green Belt policy.

6.2.4 The proposal would not have a significant impact on the visual character of the area, and as such would be in line with Core Strategy policies CS6 and CS17, and SAMDev Plan policy MD14.

6.3 **Local amenity and other considerations**

6.3.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity. SAMDev Plan policy MD14 supports the development of waste transfer, recycling and recovery facilities where, amongst other matters, the potential adverse impacts on the local community can be satisfactorily controlled.

6.3.2 Open windrow composting operations can generate odour, dust and bio-aerosol emissions. The site is relatively distant from residential and other properties, and the M54 embankment presents a substantial barrier to emissions from the site affecting properties on the southern side of the motorway. The applicant considers that the additional waste quantities can be processed using existing infrastructure and operational methods. Officers are not aware of any particular issues with the operation of the site. Site management controls will continue to be imposed through the conditions of the existing planning permission. The Environmental Permit for the operation would provide an additional level of control over emissions, and the Environment Agency has raised no objections to the proposal. Overall it is considered that the proposed increase in waste quantities can be accommodated at the site without adversely affecting local amenity.

6.4 **Highways and access considerations**

6.4.1 Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The application states that, at an input rate of 25,000 tonnes per annum as proposed, the facility would attract an average of approximately 20 vehicle deliveries per day during peak periods (March to October). The site has relatively good access to the principal road network, via the A464 which connects to the M54. The Council's Highways Officer considers that these road links have sufficient capacity to cater for the additional vehicle movements that would be associated with the increased tonnage.

6.4.2 It is noted that the Town Council has raised concerns regarding the potential damage to roads, and has requested that the Highways team investigate this. The Highways Officer has raised no objections to the proposed development and has not raised any concerns over the potential damage to the approach roads. With reference to the guidance provided in para. 32 of the NPPF, it is not considered that the impacts of the development on transport grounds would be severe. As such it is not considered that a refusal of the application on the grounds of the potential damage to the public highway could be substantiated.

6.5 **Flood risk, drainage and pollution considerations**

6.5.1 Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. SAMDev Plan Policy MD2 requires that developments incorporate sustainable drainage techniques in support of Policy CS18. The Shifnal Neighbourhood Plan 2014-2026 is currently undergoing independent examination. Upon adoption it will form part of the development plan for Shropshire. One of the objectives of the Plan is that any new development should seek to reduce flood risk and should not adversely affect drainage and flooding in the town. Draft policy EN3 states that development will be expected to be designed to reduce the overall level of flood risk within the parish; and provide appropriate surface water drainage. In relation to the current application, the Town Council has requested that the Environment Agency look at the possibility of contamination to Wesley Brook, and that the Council investigates flooding and drainage implications.

6.5.2 The existing site has been engineered to ensure that runoff from the composting waste is prevented from being shed onto surrounding land. The proposed increase in tonnage would not affect these arrangements. Composting operations are undertaken on a concrete pad. A perimeter kerb ensures that runoff is contained within the pad, and the pad is laid to a fall to direct water to an underground sealed tank. It is considered that the surface water management design of the site is acceptable.

6.5.3 The southern part of the site lies within Flood Zones 2 and 3, signifying areas of increased flood risk from the adjacent Wesley Brook. At the time that the previous application for composting at this site was being considered, the Environment Agency noted that any flood water on the eastern (i.e. compost site side) bank of the brook could flow down the access track and around the bund during flood events. They raised no objection to that proposal, and have raised no objection to the current proposal. Furthermore, no objection has been raised by the Council's Flood and Water management team. The applicant has advised that the compost

site does not flood, and Officers are not aware of any reports of contamination of the brook. As such it is not considered that the current proposal, which would allow for the storage of additional green waste on the site, would increase flood risk or pollution risk. On this basis, and in the absence of any concerns from the pollution control and drainage authorities, Officers do not consider that refusal of the application based upon the concerns of the Town Council could be supported.

7.0 **CONCLUSION**

7.1 The proposal seeks to increase the permitted tonnage of green waste that can be processed at the existing temporary composting site at Knowlbank. This would enable a greater amount of locally-derived waste to be managed in a sustainable way, and is supported in principle by national and local planning policies. The additional waste would be processed using existing infrastructure at the site, and no other changes are required to the permitted operation. Given that it is an existing permitted site, the proposal would not affect the openness of the Green Belt, or otherwise adversely affect the visual character of the area. Existing controls over site management would continue to be applied to the site, to ensure that potential impacts on local amenity and highway safety are avoided, and to ensure that the proposal does not increase pollution or flood risk. The proposal is in line with Development Plan and national planning policies, and as such it is recommended that planning permission for the variation of the condition to allow for an increase in permitted tonnage from 20,000 to 25,000 tonnes can be granted subject to the re-imposition of the conditions (where relevant) imposed on permission ref. 10/00783/MAW.

8. **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. Financial Implications

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

10.1.1 Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)
- Policy CS19 (Sustainable Waste Management)

10.1.2 SAMDev Plan

- Policy MD2 (Sustainable Design)
- Policy MD12 (Natural Environment)
- Policy MD14 (Waste management facilities)

10.2 Central Government Guidance:

10.2.1 National Planning Policy Framework (NPPF)

10.3 Relevant Planning History:

10/00783/MAW To extend the area and capacity of the existing on-farm composting facility to form a new consolidated planning permission for a period of 10 years (renewal of planning permission Ref SC/MB2006/1014/BR) *GRANT* 30th April 2010

SC/MB2006/1014/BR To extend the area and capacity of the existing on-farm composting facility to form a new consolidated planning permission for a period of 10 years *PERMIT* 5th March 2007

SC/MB2001/0749/BR On-farm composting site *PERMIT* 24th May 2002

11. **Additional Information**

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) The application ref. 15/05598/VAR and supporting information and consultation responses.
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Members Cllr Kevin Turley

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 hereby permitted shall be undertaken in accordance with the approved details, as set out below:

Details approved under permission ref. 10/00783/MAW
Letters from Crestwood Environmental dated 5 and 6 December 2006, 10 April and 13 November 2007 and 26 February 2010

Form MW2 dated 23 November 2006 revised 7 December 2006

Form3 dated 23 November 2006

Supporting Statement dated November 2006, revised 7 December 2006

Site Specific Risk Assessment of Potential Bioaerosol Releases dated December 2006

Landscaping and planting Schedule dated November 2007

Drg CE/TLFD/04, Site Location Plan

Drg CE/TLFD/03 Compost Product Application Sites

Drg CE/TLFD/09a Revised Site Layout Plan

Drg CE/TLFD/09 Revised Site Layout Plan (Risk Assessment)

Details approved under discharge of conditions application ref. 13/00613/DIS

Landscaping and Planning Schedule, dated May 2007

Email from Malcolm Marshall dated 18th February 2013 regarding skip dimensions

Drawing entitled Telford Site Extension showing location of skip

Details approved under permission ref. 15/05598/VAR

Supporting Statement entitled Planning Documentation, dated December 2015

Letter from Veolia dated 1st March 2016 regarding Industrial Emissions Directive; National Planning Policy Framework; Implications of Increased Throughput; Other Specific Items Identified by the Environment Agency; Conclusion.

Letter from Veolia dated 1st March 2016 regarding surface water drainage arrangements, including Surface water storage requirements for sites

Email from James Cook dated 11th March 2016

Email from James Cook dated 11th April 2016

Reason: To define the development permitted.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

3. No composting, importation of waste or stocking of waste or partially or finished compost shall take place at the Site after 30th April 2020.

Reasons:

To define the development permitted.

To enable a review of the links between this development and other uses in the Green Belt which justify the site's location in the Green Belt, including the use of the compost on adjacent farmland within the Green Belt, to determine if these links have become established and maintained over a reasonable period of time.

4. No waste shall be imported to the Site other than "green waste". For the avoidance of doubt green waste includes garden prunings, grass cuttings, horticultural waste, cut trees and brushwood, leaves, plant waste arising from gardens, civic amenity sites, and landscape and ground maintenance works and cut reed and waterweed from watercourses and does not include hazardous waste, food or kitchen waste, animal bedding/manure, commercial food processing waste, paper, card, sawdust, animal carcasses, parts of animal carcasses, products of animal origin or waste that has been in contact with animal carcasses or products of animal origin, or waste which originates from premises where animal carcasses or products of animal origin are handled or foodstuffs containing or coming into contact with them are prepared or produced.

Reasons:

To define the permitted development in accordance with the development applied for.

To protect surface and groundwaters from pollution.

To protect local amenities of occupants of adjacent land from visual intrusion, pests, litter, unpleasant odour.

5. The quantity of waste imported to the Site shall not exceed 25,000 tonnes in any 12 month consecutive period.

Reasons:

To define the permitted development.

To ensure that the operating capacity of the site is not exceeded.

To protect local amenities and the Green Belt from visual intrusion.

To protect the amenities of the surrounding area from excessive traffic movements.

In the interests of highway safety

6. The operator shall record the number of vehicles delivering waste to the Site and the weight of waste delivered every calendar month and forward a copy of this information in writing to the Local Planning Authority within 7 working days of the end of each calendar month or such longer period as may be approved in writing by the Local Planning Authority.

Reason:

To allow the proper monitoring of planning conditions relating to controls on the rate of waste importation

7. The site operator shall notify the Local Planning Authority in writing of the date of that the importation of waste ceased permanently within 7 days of the permanent cessation of waste importation, hereinafter referred to as the "Cessation Date".

Reason:

To enable the Local Planning Authority effectively to monitor the impact of the development and compliance with planning conditions.

8. No vehicle shall enter or leave the Site other than by way of the vehicular access marked "Site Entrance" on Drg CE/TLF/09a.

Reasons:

In the interests of highway safety.

To define the planning permission.

9. No waste shall be imported to the Site unless a notice clearly legible by drivers of vehicles leaving the Site and advising drivers of permissible routes from the Site is in place at the Site.

Reason:

To help prevent the use of roads unsuitable for traffic leaving the Site and to make drivers aware of existing restrictions.

10. No vehicles shall use the access and vehicle turning and unloading areas shown on Drg CE/TLF/09a unless the surface of these areas is maintained to be free of potholes and with an even gradient.

Reason:

To protect local amenities from the potential adverse impact of noise, dust and mud leaving the Site.

11. Steps shall be taken to prevent mud and dust arising at the Site being taken on to the public highway. Such steps shall include, as required, the maintenance and sweeping of the access road to keep it clear of mud dust and other deleterious materials and/or the use of wheel cleaning facilities in accordance with details previously approved in writing by the Local Planning Authority.

Reason:

To protect local amenities from the potential adverse impact of noise, dust and mud leaving the Site.

12. Surface water drainage shall include provision for drainage to underground storage tanks as detailed in the letter from Veolia dated 1st March 2016.

Reason:

To prevent pollution of the water environment.

13. No fuel, oil or chemicals shall be stored at the Site unless located on an impervious base surrounded by impervious bund walls. The volume of the bunded area must be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the bunded compound shall be at least the equivalent of the largest tank, vessel or combined capacity of interconnected tanks, whichever is the larger, plus 10%. No filling point, vent or sight glass must be located other than within the bunded area, unless they have a separate secondary containment. All filling points and tank overflow points must be detailed to discharge downwards into the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall only be located above ground and protected from accidental damage. No filling point or tank/vessels overflow pipe outlet shall be detailed and constructed so as to discharge in any manner other than downwards into the bunded area.

Reason:

To prevent the pollution of the water environment.

14. No vehicle circulation, turning, or unloading area, and no stocking, screening or windrow area shall be used at the Site unless surfaced with reinforced concrete as set out in the Supporting Statement accompanying the planning application or such other impermeable hardstanding, the specification of which has been previously approved in writing by the Local Planning Authority.

Reason:

To prevent discharges to ground and pollution of the water environment.

15. No operations hereby permitted shall take place unless measures are taken to ensure that the existing drainage systems at the Site and adjacent land are diverted and continue to operate efficiently. No development hereby permitted or required shall take place in such a manner as to make the drainage of adjacent land less efficient than existed before the development was implemented and the owners of riparian rights upstream and downstream of the Site are not adversely affected.

Reason:

To ensure the drainage of adjacent land is not adversely affected.

16. No building, fixed plant, machinery or structures of the nature of buildings fixed plant or machinery shall be erected at the Site in addition to the existing weighbridge and office shown on Drg CE/TLF/09, and the skip shown on drawing Telford Site Extension, and in any event no such development shall take place within 8 metres of the top of any bank or watercourse.

Reasons:

To protect the openness of the Green Belt.

To protect local amenities and amenities of local residents from visual intrusion.

To define the permitted development.

To maintain access to the watercourse for maintenance or improvements and to provide for overland flood flows

17. No plant shall be used at the Site other than a mobile grinding/shredding machine, a mobile screen for the final compost, and front shovel loader referred to in the Supporting Statements dated November 2006.

Reasons:

To define the permitted development.

To protect the amenities of the local area from visual intrusion and the adverse effect of noise and dust.

To protect the openness of the Green Belt.

18. No structures shall be erected for area lighting at the Site.

Reason:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion.

19. No fence, soil mound or hard surface shall be provided at the Site other than as set out in the approved plans and documents subject to the terms other planning conditions attached to this planning permission.

Reason:

To protect the openness of the Green Belt and local amenities and amenities of local residents from visual intrusion.

20. No operations for the importation, shredding, or handling of waste, the construction and turning of windrows or screening or handling of compost or removal of waste or compost shall take place at the Site except between 08:00 to 18:00 hours Monday to Saturdays with the exception that waste may be received on Sundays between 08:00 and 16:00 hours. Notwithstanding the hours of operation set out above no operation hereby permitted or required, other than the delivery of waste, shall take place on any Bank or Public Holiday.

Reason:

To protect the Green Belt, local amenities and amenities of local residents from disturbance from noise and traffic outside normal working hours.

21. No plant, including plant for the shredding, loading and transportation of waste and construction and turning of windrows, shall be employed at the Site for the purpose of carrying out the use and operations hereby permitted or required unless that plant is fitted with a silencer and/or is enclosed or acoustically screened and is maintained in accordance with the manufacturer's recommendations.

Reason:

To protect local amenities and those of local residents from the adverse impact of noise.

22. All reasonable steps shall be taken to ensure that any offensive odour arising from these areas is minimised. Such steps shall include ensuring that the windrows are maintained in an aerobic condition through good management practices as set out in submitted risk assessment.

Reason:

To protect local amenities and amenities of local residents from the adverse effects of odour.

23. All reasonable steps shall be taken to ensure that the emission of dust, particulates and bio-aerosols from the Site is minimised. Such steps shall include ensuring that the windrows are maintained in a moist condition and at sufficient temperature and all site surfaces such as access roads, tracks and windrow piles are dampened down as necessary and such other good management practices as set out in submitted risk assessment.

Reason:

To protect local amenities and amenities of local residents from the adverse effects of odour and bio-aerosols.

24. Every day the Site and, in particular, the Site periphery shall be inspected and any litter picked and removed from the Site.

Reason:

To protect local amenities and amenities of local residents from the adverse visual impact of litter.

25. No soil shall be stripped from the Site unless:
- soils are only stripped and managed as set out in the supporting statement;
 - topsoil and any subsoil is stripped separately;
 - topsoil and any subsoil are stored separately and a record kept of their separate locations;
 - soils are only stored in the soil storage mound shown on Drg CE/TLFD/09a.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion and the adverse effects of dust emissions.

To minimise damage to soils to be planted and retained for restoration to agriculture.
To define the planning permission.

26. The soil bunds shown on Drg CE/TLFD/09a shall only be constructed to a maximum height of 2.6 metres above the adjacent windrow and stocking area, and with an inner slope not steeper than 1 in 2 and an outer slope not exceeding 1:3 in the locations shown on that drawing:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion.
To define the planning permission.

27. Landscape planting shall be undertaken in accordance with the details approved on 15th May 2013 in relation to the application ref. 13/00613/DIS) for discharge of conditions of permission ref. 10/00783/MAW. Such landscaping shall be undertaken no later than the end of the first available planting season following the date of this planning permission.

As set out in the decision letter dated 15th May 2013, prior to any further extension of the composting pad, tree planting along the northern boundary of the permitted site shall be undertaken in accordance with details that have received the prior approval of the local planning authority.

Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reasons:

To protect the openness of the Green Belt, local amenities and amenities of local residents from visual intrusion and the adverse effects of noise, dust and other emissions.

To define the permitted development.

28. The hedgerow on the northern boundary of the Site and adjacent to the area marked "Product Screening Area" on Drg CE/TLFD/09a shall be maintained in accordance with good agricultural practice to a height not less than two metres above the surface of the adjacent public road.

Reason:

To protect the openness of the Green Belt, local amenities and amenities of local residents from visual intrusion

29. The edge of the concreted area in the area marked "product screening area" on Drg CE/TLFD/09a shall not be come closer than three metres to the base of the existing hedgerow marking the boundary between the Site and lane to the north of the Site and no compost shall be stored or screened within three metres of the base of that hedgerow.

Reason:

To ensure that the root system of the existing hedgerow system is not damaged in order to protect the openness of the Green Belt, local amenities and amenities of local residents from visual intrusion.

30. No waste shall be stockpiled at the Site other than within the feedstock processing area and extension to stocking area identified on Drg CE/TLFD/09a.

Reasons:

To protect the openness of the Green Belt and local amenities and amenities of local residents from visual intrusion.

To ensure waste is confined to a properly surfaced and drained area

31. No waste shall be composted at the Site other than within the areas marked existing windrow compost pad and extension to windrow compost pad on Drg CE/TLFD/09a.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion and the adverse effects of noise, dust, odour and other emissions.

To define the permitted development.

To protect water resources.

32. No waste stockpiled at the Site shall remain at the Site for a period greater than 14 days before being placed in a windrow for composting.

Reason:

To reduce the risk of odour emissions from the Site and the risk of attracting pests.

33. No waste or compost at the Site shall be stockpiled stored or deposited at the Site to a height greater than 5 metres above ground level.

Reasons:

To protect the openness of the Green Belt and local amenities and amenities of local residents from visual intrusion.

To define the permitted development.

34. In the event of any waste not permitted under the terms of this planning permission entering the Site the unauthorised waste shall be rejected immediately, or if this is not possible, shall be stored temporarily in a covered skip or container within the storage area and then removed to an authorised site as soon as is practicable.

Reasons:

To protect the openness of the Green Belt, and to protect local amenities and the amenities of local residents from visual intrusion and the adverse effects of dust, odour, litter and other emissions.

To protect water resources from pollution.

35. No skip or other container for waste shall be located at the Site other than a skip or container to accommodate unauthorised waste.

Reasons:

To protect the openness of the Green Belt, and to protect local amenities and the amenities of local residents from visual intrusion and the adverse effects of dust, odour, litter or other emissions.

To protect water resources from pollution.

36. No waste shall be exported from the Site other than unauthorised waste referred to in the condition above.

Reasons:

To protect the openness of the Green Belt, and to protect local amenities and the amenities of local residents from unnecessary traffic movements.

To define the planning permission.

37. Except for composting within the windrows no waste shall be treated at the Site other than shredding, chipping or other treatment of waste, in the "feedstock processing area" and "extension to stocking area" identified on Drg CE/TLFD/09a.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion and the adverse effects of noise, dust, odour and other emissions.

To define the permitted development.

38. No waste shall be burned at the Site.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion and the adverse effects of smoke emissions.

To prevent air pollution.

To define the planning permission.

39. Prior to any further extension of the concrete pad the northern boundary of the Site edged red on Drg CE/TLFD/09a shall be clearly demarcated on the ground by a barrier the location and specification of which has been previously approved in writing by the Local Planning Authority.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from visual intrusion and the adverse effects of noise, dust, odour and other emissions.

To define the permitted development.

40. There shall be no retail sale of compost or other materials from the Site.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from additional traffic.

To prevent the establishment of uses inappropriate to the Green Belt.

To define the permitted development

41. The Site shall not be used as a reception point for waste delivered directly by the public.

Reasons:

To protect the Green Belt, local amenities and amenities of local residents from additional traffic.

To prevent the establishment of uses inappropriate to the Green Belt.

To define the permitted development

42. No soils shall be removed from the Site.

Reason:

To ensure soils are available for the restoration of the Site to agriculture to the required standard.

43. A copy of this planning permission and any schemes approved under the terms of this planning permission shall be kept at and available for inspection at the Site office at all times when the Site is operational.

Reason:

To ensure that staff at the Site are aware of the terms and conditions of the planning permission and facilitate compliance with them.

44. By 29th April 2021 or within 12 months of the Cessation Date referred to above, whichever is the sooner, the Site shall be cleared of all hard surfaces, kerbing, tanks, buildings, plant, fences, the weighbridge, vehicles, containers, skips, waste and compost and be spread with the original soils retained and restored to agriculture to the same standard as existed prior to the development.

Reason:

To provide for the re-instatement of the land to agriculture to a standard that now exists following the cessation of the permitted development.

45. Following the restoration of the Site to agriculture, in accordance with the above condition, the Site shall be managed for a period of 5 years in accordance with a scheme of aftercare satisfactory to the Local Planning Authority and submitted to them for approval within 6 months of the permanent cessation of composting at the Site.

Reason:

To provide for the establishment of the restored agricultural to the standard now existing by management in accordance with good agricultural practice.

Informatives

1. 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.
2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

Shropshire Core Strategy

- o Policy CS5 (Countryside and Green Belt)
- o Policy CS6 (Sustainable Design and Development Principles)
- o Policy CS17 (Environmental Networks)
- o Policy CS18 (Sustainable Water Management)
- o Policy CS19 (Sustainable Waste Management)

SAMDev Plan

- o Policy MD2 (Sustainable Design)
- o Policy MD12 (Natural Environment)
- o Policy MD14 (Waste management facilities)

3. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.



<u>Committee and date</u>
South Planning Committee
26 April 2016

Development Management Report

SCHEDULE OF APPEALS AND APPEAL DECISIONS AS AT COMMITTEE 26 April 2016

LPA reference	14/04018/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Selina Graham
Proposal	Outline planning application for residential development (including access, all other matters reserved)
Location	Land South Of Coalport Road Broseley
Date of appeal	02.12.15
Appeal method	Hearing
Date site visit	
Date of appeal decision	22.02.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/02859/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Lettie Moore Apley Estate
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Barn At Allscott Farm Allscott Bridgnorth
Date of appeal	16.11.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	18.02.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01245/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Ian Lewis
Proposal	Erection of 1No dwelling and garage; installation of package treatment plant
Location	Car Park At Penny Black Inn Knowbury, Ludlow Shropshire, SY8 3LL
Date of appeal	26.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04463/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	TGC Renewables Ltd
Proposal	Construction of a solar park comprising the installation of (circa) 14,200 ground mounted solar panels; inverter cabin; electricity sub-station; switchroom; comms building; pole mounted CCTV system; 2.4m high security fencing; associated access gates and gravelled roads
Location	Land At 366353, 271002 West Of High Point Neen Sollars, Shropshire
Date of appeal	06.07.2015
Appeal method	Written Representations
Date site visit	12.11.2015
Date of appeal decision	16.03.2016
Costs awarded	
Appeal decision	Allowed

LPA reference	14/02226/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	M G Walker & Sons
Proposal	Outline application for the erection of one dwelling for a rural worker to include access
Location	Proposed Rural Workers Dwelling West Of Heathton Claverley
Date of appeal	19.11.2015
Appeal method	Hearing
Date site visit	
Date of appeal decision	18.03.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/02873/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	EBS Energy LLP
Proposal	Erection of ground mounted solar farm along with associated infrastructure, landscaping and ancillary structures on agricultural land
Location	Whitton Solar Farm Caynham Shropshire
Date of appeal	08.10.15
Appeal method	Written Representations
Date site visit	09.12.15
Date of appeal decision	22.03.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/00795/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Redrow Homes Midlands
Proposal	Erection of seven dwellings; and formation of estate road
Location	Land South Of A464 Wolverhampton Road Shifnal Shropshire
Date of appeal	10.11.15
Appeal method	Written Representations
Date site visit	25.1.16
Date of appeal decision	31.3.16
Costs awarded	
Appeal decision	Allowed

LPA reference	14/04056/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Karen Conway
Proposal	Erection of one dwelling and 2-bay car port
Location	Barratts Hill Farmhouse Barratts Hill Broseley Shropshire TF12 5RH
Date of appeal	01.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/02676/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Karen Harris
Proposal	Erection of building in association with equine business and the temporary siting of a mobile home
Location	Proposed Equine Facility Snailbeach Shropshire
Date of appeal	01.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/05163/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Stephen Howie
Proposal	Outline application for residential development (all matters reserved)
Location	Proposed Residential Development To The West Side Of Halfway House Lane Eardington
Date of appeal	5.2.16
Appeal method	Hearing
Date site visit	
Date of appeal decision	6.4.16
Costs awarded	
Appeal decision	Appeal Withdrawn

LPA reference	15/01027/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs S Weaver
Proposal	Outline application for the erection of retirement housing to include means of access
Location	Elm Lodge Fishmore Road Ludlow Shropshire SY8 3DP
Date of appeal	11.04.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/01120/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Richard Allen
Proposal	Erection of dwelling (outline application to include means of access, but with matters of appearance, landscaping, layout and scale reserved)
Location	Proposed Dwelling To The East Of Lordstone Lane Minsterley Shropshire
Date of appeal	11.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00746/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Dave Dudley
Proposal	Outline Planning Permission for erection of two detached dwellings; including garages. Alterations to existing vehicular access. (All matters reserved)
Location	Proposed Residential Development Land East Of Simmonds Barn Buttonoak Kinlet Shropshire
Date of appeal	11.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/04328/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr J Russell
Proposal	Erection of a two storey side extension to include balcony; erection of porch to front elevation
Location	Hill House Quatford Bridgnorth Shropshire WV15 6QJ
Date of appeal	08.01.2016
Appeal method	Written representations
Date site visit	11.04.2016
Date of appeal decision	14.04.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/02459/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr John Webb
Proposal	Construction of a detached dormer bungalow
Location	Proposed Dwelling South Of Blue Ridge Alveley Shropshire
Date of appeal	14.4.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

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Appeal Decision

Hearing held on 9 February 2016

Site visit made on 9 February 2016

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 22 February 2016

Appeal Ref: APP/L3245/W/15/3134229

Land off Coalport Road, Broseley, Shropshire TF12 5AN

- 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 Selina Graham against the decision of Shropshire Council.
 - The application Ref 14/04018/OUT, dated 3 September 2014, was refused by notice dated 10 March 2015.
 - The development proposed is an outline application for residential development (with access).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was submitted in outline with only access to be decided at this stage. I have therefore treated the submitted layout plan as indicative only, and have decided the appeal on this basis.

Main Issue

3. Based on all that I have read, seen and heard at the Hearing, I consider the main issue in this case to be whether the development proposed would be consistent with the principles of sustainable development having regard to the development plan and the National Planning Policy Framework.

Reasons

4. Coalport Road links Broseley to Coalport to the east. Primarily residential development lines the road and the appeal site consists of a green field on the eastern edge of the settlement, to the south of the road. To the north lies a site currently under construction for housing. Access to the site would be via a new road sited close to No 62 Coalport Road, and the indicative layout shows that around 21 units could be accommodated on the site.
5. No 62 faces Coalport Road, and has a side elevation facing onto the site. Adjacent to No 62 is a footpath heading south towards Rough Lane. Along this footpath No 3 Rough Lane is located. The façade of this attractive 2 storey dwelling directly faces the appeal site. Nos 4 and 5 Rough Lane lie close to the southern boundary of the site and back onto the land. Rough Lane, as its name suggests, is a fairly narrow primarily unsurfaced lane and accesses a few dwellings. I consider Rough Lane to be redolent of a countryside lane – dwellings are sporadically placed and of varying ages, in direct contrast to the

more modern development set off Coalport Road. I do not consider therefore that in due course the site would have residential development on 3 sides; whilst this is true of the west and, in time, for much of the north sides of the site, the east and south sides would remain largely open.

6. The site falls roughly down to the east, with the eastern boundary delineated by a post and rail fence. In views from the east when approaching Broseley the site is clearly visible; Coalport Road is a winding road with many changing gradients and to the east of Folly Farm it falls to cross a stream. At my site visit from this vantage point and in views down this hill the site was clearly visible as a green field framing the edge of the settlement, and is far more visible in public views from this road than the comparatively well screened developing site to the north of the road.
7. The appellant states that the post and rail fence boundary could be supplemented by a hedge and trees. However, such screening would take time to establish and may be of limited use from views higher up, such as to the east. Furthermore I do not consider that the proposal would round off the development. The presence of No 3 Rough Lane in particular, overlooking the appeal site makes a clear and well defined edge to the existing settlement.
8. At the Hearing discussions were held concerning a landscape sensitivity study for Broseley¹ which the appellant considers places little weight on the landscape value of the appeal site. The study does not analyse the appeal site, but does consider two areas of land to the north and south. One of these contains the current housing construction site. The Council stated that the areas were analysed as they were being considered for housing development, which would make sense given their description as 'sites' in the document key and the specific consideration of the housing capacity of each area, suggesting that the appeal site was not considered at the time of the publication of that document. Moreover, each area of land is different and has differing qualities. The development of the site would involve the extension of Broseley into the countryside and would, I consider, involve the removal of an attractive field from the open countryside.
9. Policy CS1 of the Shropshire Council Adopted Core Strategy, March 2011 (the Core Strategy) sets the strategic approach to development in the County. The policy states that market towns and key centres will accommodate around 40% of the residential development for the County over the plan period and that outside settlements development will primarily be to meet the needs of local communities for affordable housing. The Shropshire Council Site Allocations and Management of Development Plan (SAMDev) was adopted in mid-December 2015. Policy MD3 of this plan concerns the delivery of housing development. The first part of this policy, under the sub heading of 'Delivering housing' states that, in addition to settlement allocations, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan (the Core Strategy and the SAMDev taken together) particularly policies CS2, CS3, CS4, CS5, MD1 and MD7a, and that proposals should meet the design requirements of the Local Plan and include a mix and type of housing suitable to the local area.
10. Policies CS2 and CS4 concern Shrewsbury, and Community Hubs and Community Clusters respectively, and are not relevant to this case. Policy CS3

¹ Bridgnorth District Landscape Sensitivity Study March 2008

defines Broseley as a Market Town and Key Centre and states that the town shall have development that balances environmental constraints with meeting local needs. Policy MD1 of the SAMDev states that sustainable development will be supported in Key Centres having regard to policies CS2, CS3, CS4 and the settlement policies (in this case S4) and policies MD3 and MD4 (which relates to employment development).

11. The second part of policy MD3, under the sub heading of 'Settlement housing guidelines' states that the settlement housing guideline is a significant policy consideration. Where a development would likely lead to more dwellings than the guideline, decisions will have regard to a number of factors. However, point 3 under the same sub-heading states that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement development boundaries that accord with the settlement policy may be acceptable subject to the same factors. It appears self-evident to me therefore that sites outside the development boundary will only be considered where the housing guideline for the settlement would be unlikely to be met.
12. Policy S4 of the SAMDev concerns Broseley and states that around 200 dwellings during the period 2006-2026 are planned. The plan proposes no allocations within the settlement as 176 houses already had consent or were built. 24 remaining houses would be met through windfall developments. Whilst I note the use of the word 'around' in the policy, on all the evidence I have heard it appears at present that Broseley will have sufficient housing development to meet its settlement housing guidelines and that further housing *may* therefore be permitted in the development boundaries where it meets the requirements in point 2 of policy MD3. However, there is no need under current circumstances to consider sites outside the boundary. Both sides are in agreement that the appeal site lies outside the development boundary for Broseley.
13. The proposal is primarily for new market housing with 15% affordable housing. Policy CS5 states that in the countryside new development will be strictly controlled, with dwellings for certain specified needs only permitted, none of which the proposal would fully meet. Policy MD7a states that new market housing will be strictly controlled outside, amongst other areas, the Market Towns and Key Centres. The proposal would not therefore accord with Policies MD1, MD3, CS3, S4, CS5 or MD7a of the Local Plan.
14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraphs 11, 12, 196 and 214 of the National Planning Policy Framework (the Framework) confirm this; paragraph 12 states that proposed development that conflicts with an up to date Local Plan should be refused unless other material considerations indicate otherwise. Paragraphs 13, 196 and 197 confirm that the Framework is a material consideration, and that in determining development proposals a presumption in favour of sustainable development should be applied.
15. There is no dispute amongst the parties that the site is sustainably located; a local school, bus stops and a shop at the corner of Coalport and Ironbridge road would all be easily accessible by foot from the site. The proposal would provide economic and social benefits, through the construction of the estimated

- 21 units, bringing new residents to the town, the short term economic benefit of the construction work and through Community Infrastructure Levy contributions.
16. At the Hearing a Section 106 agreement relating to the scheme was submitted. Although there were queries over the legitimacy of this document, in essence the agreement contains confirmation over affordable housing provision at 15% and contained a sum of money relating to highway improvement. Social benefits would be accrued through the provision of the affordable housing on the site. At the hearing a connection to the existing footpath from around Folly Farm to the path to Rough Lane was discussed, as well as a possible permissive path on the site itself which may be better suited to persons of restricted mobility. This would also provide a benefit, as would the proposed public open space on the site.
17. However, for the reasons given above in paragraphs 5-8 I consider that the economic and social benefits of the proposal would be outweighed by the environmental effect of the scheme and the proposal would not thus be the sustainable development for which there is a presumption in favour. Paragraph 17 of the Framework contains core planning principles and states that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.
18. I therefore conclude that the proposed development would not be consistent with the principles of sustainable development having regard to the development plan and the Framework.

Other Matters

19. At the Hearing a personal statement from the appellant was submitted. I have no doubt over the intentions of the appellant and do not question that other schemes carried out on their land has been provided to a high quality. However, this does not outweigh my conclusions over the non-compliance of the scheme in this case with the development plan.
20. The appellant considers that the grant of permission to the site to the north of the appeal site creates precedence. However, each case must be dealt with on its own merits; moreover I note that the northern site received permission prior to the SAMDev being adopted and when the circumstances regarding the settlement housing guidelines for Broseley would have been different.
21. The appellant notes that the appeal site featured in an earlier version of the SAMDev as part of some preferred options for possible employment sites. However, I note that this document is around 3 years old and has been subsequently replaced by the adopted SAMDev. Whilst I note the statement that the site was originally removed due to possible impacts of heavy goods vehicles, I do not consider that this implies that the Council considers the site is acceptable in landscape terms for development.
22. Both parties submitted a range of recent appeal decisions in support of their respective views. However, in relation to the decisions² submitted by the appellant I note that all four decisions pre-date the adoption of the SAMDev and relate to differing parts of Shropshire with differing characteristics and

² APP/L3245/W/15/3029727, APP/L3245/W/15/3003171, APP/L3245/W/15/3004618, APP/L3245/W15/3001117

need. As such these appeal decisions do not lead to me to a different conclusion on the case before me.

Conclusion

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

Jon Hockley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stuart Thomas Appellant's Agent

FOR THE LOCAL PLANNING AUTHORITY:

Tim Rogers Shropshire Council

Edward West MCD MRTPI Shropshire Council

INTERESTED PARTIES:

Mr Harris	Mayor, Broseley Town Council
Ian Pickles	Broseley Town Council
Bill Newton	Broseley Residents Association
Roy Bennett	Chairman, East Broseley Residents Association.
Peter Nixon	Local resident
Mike Wallage	Local resident
Mr Lee Wheeler	Interested Party
Dr Kate Riley	Interested Party

DOCUMENTS SUBMITTED AT THE HEARING

1. Personal statement of the appellant.
2. Statement of Common Ground, dated 25 December 2015.
3. Agreement dated 9 February 2016 between the Willey Estates (2 parties) and Shropshire Council, pursuant to Section 106 of the Town and Country Planning Act 1990.

Appeal Decision

Site visit made on 2 February 2016

by Declan Beggan BSc Hons Dip TP Dip Man MRTPI

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

Decision date: 18 February 2016

Appeal Ref: APP/L3245/W/15/3136134

Coach House Barn, Allscott Farm, Allscott, Bridgnorth, Shropshire, WV15 5JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Lettie Moore of Apley Estate against the decision of Shropshire Council.
 - The application Ref 14/02859/PMBPA, dated 30 June 2015, was refused by notice dated 24 September 2015.
 - The development proposed is described as a 'change of use from agricultural to residential use'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of the development as it appears on the Council's decision notice which I consider more concisely describes the proposal.
3. The appellant's evidence refers to the listed status of Allscott Farmhouse and states that a number of buildings, including the building which is the subject of this appeal, are not listed, whilst other adjacent structures have not been subject to listed building consent by the Council. My decision only considers the status of the agricultural building which is the subject of this appeal.
4. The appellant has drawn attention to the fact that the Council's decision notice incorrectly refers to 'Allscott Farm' as the listed building relevant to the appeal building. It is clear from the Council's statement that the relevant listed building is in fact Allscott Farmhouse. I do not consider this error in the drafting of the notice has prejudiced the appellant. Consequently I have proceeded to determine the appeal on the basis that the relevant listed building is Allscott Farmhouse.

Main issues

5. The main issues in this appeal are;
 - Whether the development would be permitted development under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). In particular, whether the

building would be within the curtilage of a listed building and thereby be excluded by Schedule 2, Part 3, Class Q.1 (m); and,

- If the proposal is permitted development under the provisions of Class Q of the GPDO, whether the development would be acceptable in terms of the design or external appearance of the building.

Reasons

6. The appeal relates to an existing building known as the Coach House Barn, which is located adjacent to Allscott Lane, near to the village of Worfield. The building comprises of two floors with brick walls and a tiled roof. The elevation facing onto Allscott Lane contains three cart style openings at ground floor with window openings above. The building is located adjacent to a number of other agricultural buildings which have a similar appearance. The appellant maintains the building has historically been used for agricultural purposes, forms part of an agricultural holding, and upto recently was used for the storage of machinery. The Council has not disputed this assessment of its use; I have no reason to take a different view.
7. On the opposite side of the Allscott Lane lies Allscott House, a grade II listed building and formally known as Nos. 1 & 2 Allscott Cottages, whilst approximately 100 metres to the west is Allscott Farmhouse which is also grade II listed.

Is the building within the curtilage of a listed structure?

8. The Council maintain the appeal building is a curtilage listed structure due to its association as an ancillary building related to Allscott Farmhouse which dates from the early part of the 19th century, and was listed in 1970. Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that any object or structure within the curtilage of a listed building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948, shall be treated as part of the building. The Council state the building predates 1948, and forms part of the farmstead for Allscott Farmhouse, and have submitted a plan dating from 1900 that shows the appeal building, in addition to the adjacent listed buildings, and a number of the nearby buildings that still exist. The Council maintain that the appeal building and Allscott Farmhouse, are all within the ownership of the appellant; this was confirmed by the appellant during the site visit.
9. In determining the extent of the curtilage of the listed building I am required to consider the circumstances pertaining at the time of listing, which for Allscott Farmhouse was 1970. Case law has determined that the appropriate tests relate to the physical layout and relationship between the structures on the land within the surroundings, the function past and present, and the ownership past and present. The functional relationship of the curtilage building must be that it is ancillary to the main listed building.
10. The appellant contends the physical separation of the appeal building to Allscott Farmhouse at 100 metres, in addition to the intervening lane and the presence of another barn, indicate that the structure is not close enough to be deemed a listed structure; however distance is not determinative. It would not be unreasonable that the Coach House Barn and other adjacent outbuildings such

as the adjacent barn were separated from the property to deliberately create a degree of visual separation but not a functional separation.

11. Whilst the Coach House is closer to Allscott House and another dwelling to the north, which it might be suggested they serve, nonetheless these other buildings are not significantly closer than Allscott Farmhouse. The map from 1900 confirms the physical association between Allscott Farmhouse and the Coach House has existed for a long period of time. In addition, the brickwork to both buildings, their use of tiles, and use of decorative dentil courses below the eaves indicates an association in design terms. Whilst the Allscott House is slightly closer to the Coach House, nonetheless its appearance and period of construction does not identify it with the appeal building; in addition the appellant has confirmed this building is not a farmhouse, and does not appear to have been one since it was rebuilt after the 'Civil War'.
12. The appeal building to my mind forms part of a collection of agricultural buildings that are dispersed along the roadside opposite Allscott Farmhouse, and which share a common theme in terms of materials used and architectural features. I observed during my site visit there was nothing to suggest the appeal building had its own defined curtilage. Bearing in mind that Allscott House does not appear to have been used as farmhouse since the 17th century, and predates Allscott Farmhouse by a considerable period, it is difficult to envisage that the appeal building would not have been used in conjunction with the nearby farmhouse.
13. As regards use and function, I saw nothing to suggest that the now vacant agricultural building has been used for anything other than agricultural purposes. The appeal building's relatively simple design and modest size are an indication of its ancillary role relative to Allscott Farmhouse.
14. Neither party have confirmed that at the time of listing that Allscott Farmhouse and the Coach House Barn were in the same ownership, however, it is notable that the appellant has not argued this is not the case. What is known is that both buildings are currently in the same ownership, as are a number of other buildings in close proximity, in addition to some 8500 acres of land.
15. Pulling the threads of the above together, the concept of curtilage is not totally geographical. A physical dislocation, as is the case here, does not remove a building from being a curtilage building. Given the nature of the original purpose of the appeal building, the group of buildings within which it is located, its proximity to Allscott Farmhouse, and the position regarding present ownership, I am not persuaded by the appellant's evidence that the Council's decision that the appeal building lies within the curtilage of the listed building, was incorrect. Given this conclusion, Class Q.1 (m) would preclude the building from benefiting from permitted development under Class Q.

Prior approval

16. Given that I have concluded that the building cannot benefit from permitted development rights then there is no necessity for me to consider the issue of prior approval, or the appellant's claim that the Council issued the decision after the statutory period for determination.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

Declan Beggan

INSPECTOR

Appeal Decision

Site visit made on 12 November 2015

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 16 March 2016

Appeal Ref: APP/L3245/W/15/3019429

High Point, Neen Sollars, Kidderminster DY14 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by TGC Renewables Ltd against the decision of Shropshire Council.
 - The application Ref 14/04463/FUL, dated 2 October 2014, was refused by notice dated 16 March 2015.
 - The development proposed is construction of a solar park comprising the installation of (circa) 14,200 ground mounted solar panels; inverter cabin; electricity sub-station; switchroom; comms building; pole mounted CCTV system; 2.4m high security fencing; associated access gates and gravelled roads.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of a solar park comprising the installation of (circa) 14,200 ground mounted solar panels; inverter cabin; electricity sub-station; switchroom; comms building; pole mounted CCTV system; 2.4m high security fencing; associated access gates and gravelled roads at High Point, Neen Sollars, Kidderminster DY14 9AD in accordance with the terms of the application, Ref 14/04463/FUL, dated 2 October 2014 subject to the conditions set out in Schedule 1 to this decision.

Preliminary and Procedural Matters

2. Having considered the appellant's request for a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011 the Council confirmed on 20 May 2014 that environmental impact assessment was not required.
3. The description of the proposed development given in the summary details above differs from that in the planning application but is one that the appellant specifically agreed at appeal stage.
4. Having advertised the planning application the Council received some 271 representations; 231 objections, 35 in support and five 'neutral'. An umbrella group called Save Our Green Hills Community Group (SOGHCG) commissioned a total of five reports. On 9 January 2015 Sightline Landscape produced a critique of the appellant's landscape and visual impact appraisal (LVIA). On 25 February Sightline issued what amounts to a rejoinder to the appellant's comments on its critique. On 2 December 2014 SOYL produced a critique of the appellant's agricultural land classification report. Again, on 26 February SOYL issued a rejoinder to the appellant's observations on that critique. All of these were available to the Council when it took its decision. Finally, in August

- 2015 Robert Doughty Consultancy produced a policy appraisal report as part of its representation to the Planning Inspectorate on behalf of SOGHCG. This was not therefore available to the Council members.
5. I will address at this point criticisms made by SOGHCG and others of the appellant's LVIA, Heritage Statement and Heritage Asset Impact Assessment (the Heritage Assessment) and agricultural land classification report. It seems to me that the LVIA has been prepared following the latest and most appropriate guidelines issued by the relevant Institutes. The Heritage Assessment addresses the matters set out in section 12 of the National Planning Policy Framework (the Framework) and in Framework paragraph 128 particularly. While SOGHCG and others may disagree with the conclusions drawn, I consider any criticisms of the methodology followed or the adequacy of the reports to be unfounded.
 6. The position regarding the appellant's agricultural land classification report is slightly different. Both the report and the response to the first SOYL critique are quite short. Although both say that the relevant guidance has been followed, SOYL dispute that, particularly with regard to the categorisation of soil wetness. I shall return to this when considering my third main issue.
 7. On 6 March 2015 the appellant made a number of amendments to the submitted planning application. These included a revised site design (layout), some changes to the northern boundary landscape treatments and an offer to reduce the maximum height of the proposed panels to 2.6m. The design and height of the perimeter security fencing had already been amended.
 8. The changes were put forward to address concerns raised by SOGHCG and others. The main change was to draw back the northern edge of the panels in the western of the two fields to the line of the overhead power cable thus removing the panels from the north-facing slope in that area. However, in doing so the appellant has increased the number of panels that would be installed from the number given in the summary details above to some 17,200. That is an increase of some 21%. The appellant pointed out during the site visit that this would be accommodated by reducing the distance between the arrays. I have no evidence about the impact of this, if any, on the scheme output or the construction period.
 9. The Council has confirmed that these changes were not subject to consultation but were reported, displayed and explained to the Council members. I understand that they visited the appeal site on the same day that the planning application was determined. The decision that they made was based on the changes put forward on 6 March.
 10. This is not a case where the appellant is seeking to amend the proposals through the appeal process. The changes were accepted by the Council notwithstanding the absence of further consultation. Furthermore, SOGHCG and others have had the chance to make comment upon them as part of the appeal process. Taking all these matters into account, I have determined this appeal on the same basis as the Council.

The Shropshire Council Site Allocation and Management of Development Plan (SAMDev)

11. The SAMDev was adopted by the Council on 17 December 2015 and therefore after the site inspection took place. On 15 January 2016 the Planning Inspectorate wrote to the main parties and SOGHCG asking for any comments on the implications this may have for the determination of this appeal. The appellant responded on 29 January as did SOGHCG. These two parties then responded to the initial comments of each other on 8 and 5 February respectively. No response at all was received from the Council.
12. The responding parties agree that SAMDev policies MD2, MD8, MD12 and MD13 are relevant to the appeal proposal. The appellant provided the whole wording of each policy and the supporting text. Additionally, the appellant considers policy S6 to be relevant and supplied the text of it and the *Place Plan for Cleobury Mortimer & Surrounding Area* to which it makes reference. Both parties also provide appeal decisions which they argue supports their case. I have taken all the views expressed on the implications of the SAMDev into account.
13. Policies MD2, MD12 and MD13 are general policies addressing Sustainable Design, the Natural Environment and the Historic Environment respectively. In their preambles they refer, in MD2, to policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (CS), adopted in March 2011 and, in MD12 and MD13, to CS policies CS6 and CS17. In doing so they either say 'further to' or 'in accordance with' the relevant CS policy.
14. The policy of most direct relevance to the appeal would appear to be MD8 which addresses infrastructure provision. Under 'New Strategic Infrastructure' are two sections. Section 3 addresses applications for several types including strategic energy infrastructure and confirms that these will be supported where the contribution to agreed objectives outweighs the potential for adverse impacts. Particular consideration will be given to listed matters many of which will be addressed by other policies. Section 4 states that the following infrastructure specific criteria will also apply. However, solar energy is not among the otherwise comprehensive list of renewable energy infrastructure. The SAMDev does not therefore require any specific or particular matters to be taken into account when considering the appeal proposal.

Main Issues

15. From my review of the evidence and my view of the appeal site and the surrounding area I consider the main issues for the determination of this appeal to be:
 - (a) The effect that the development would have on the character and appearance of the landscape;
 - (b) The effect that the development would have on the significance of the designated heritage assets in the locality; and
 - (c) Whether the proposal would accord with national planning policy and guidance for the siting of ground-mounted solar farms.

Reasons

The effect that the development would have on the character and appearance of the landscape

16. The appeal site lies within the Principal Timbered Farmlands landscape character area (LCA) as identified in the Shropshire Council Landscape Typology, 2006. The appellant's LVIA sets out the key characteristics of this LCA as being:
 - i) Rolling lowland with occasional steep sided hills;
 - ii) Relic ancient woodland;
 - iii) Hedged fields with scattered hedgerow trees;
 - iv) Predominantly dispersed settlement pattern; and
 - v) Small to medium scale landscapes with filtered views.
17. Access to High Point Farm is from a narrow lane that leads from the A456 to the south. Immediately to the south of both the access and the lane is a large woodland block, Gaudywood Park. Spot heights on the OS map show this to be around 138m AOD. The lane then falls down the valley side to the bridge over the River Rea; this is at about 70m AOD. From there it rises slightly into the small settlement of Neen Sollars before rising again towards the village hall which is on land around the 100m contour. The lane then continues out of the settlement dropping steeply to the bridge over the Mill Brook.
18. The landscape within which the appeal site lies is one that is framed by the valley sides and the woodland and is of medium scale. The topography of the valley side on which the appeal site sits is a complex of folds and undulations through which runs a minor tributary of the River Rea. The landscape therefore exhibits most of the characteristics listed above as typical of the LCA although to my eye hedgerow trees hereabouts are considerably more extensive than the term 'scattered' would suggest.
19. The appeal site itself comprises two fields each of which have marked and complex ground level changes. Into these fields would be installed the built elements described in the summary details above, as amended on 6 March.
20. Turning first to the effect on landscape character, the development proposed would have no effect on the landscape structure of the area. No hedgerows would be removed and those that are present now would be strengthened and managed to a height to provide appropriate screening where necessary. New hedgerows would be planted along parts of the north-facing development boundaries and along the western boundary to mitigate views into the site from the north and the bridleway to the west respectively. In that respect, the proposal would enhance a characteristic of the LCA and would accord with policy CS policy CS17 and SAMDev policy MD12.
21. The two fields themselves form a very small part of the area of which they are a part. Although unlikely to be the intention, this is perhaps best illustrated by the various viewpoint photographs included within the initial Sightline report. Even though I doubt these embrace the entire field of view from those locations (and since many seem to be taken from private property I was unable to verify this), the appeal fields have been colour-washed red to identify them. Furthermore, it appears that the entire north-facing slope has been coloured whereas the panels would not be installed on that slope.

22. That reinforces my own observations that most of the landscape characteristics of the area would be unaffected by the development proposed. The effect on the small to medium scale landscape of which the appeal site forms a part would be very localised. In my judgement the assessment of this effect in the appellant's LVIA as 'slight-moderate adverse' is fair. As I understand it, the development would not therefore conflict with CS policy CS17, bullet 3. This policy sets out an objective in the preamble which is to be achieved 'by ensuring that all development...'. There are then four bullets which are not linked by 'and' and therefore do not all have to be met. Bullet 3 requires development not to have a significant adverse impact on Shropshire's environmental assets and not to create barriers or sever links between dependent sites. The second part does not apply in this case and the level of effect to conflict with the policy would not be reached. As explained above, SAMDev policy MD12 is in accordance with this CS policy; as such, there would be no conflict with it either. Neither would it conflict with CS policy CS6 or SAMDev policy MD2 to the extent that they are relevant at all as they appear to be design principles rather than landscape protection policies.
23. Turning now to the effect on the appearance of the landscape, it is obvious that the appearance of the two fields will alter for the duration of the development. The issue is the extent to which that change would be appreciated and from where it would be perceived. In this respect it is material that the development would be at about 100m AOD or just above.
24. The appellant has included views from only six representative viewpoints in the LVIA although, in accordance with best practice, these were discussed and agreed with the Council. The LVIA explains that the curtilage of private properties was not entered and the assessments of those views are given from the nearest public vantage point. Sightline produced 22 viewpoint photographs, many of which appear to be from within private properties. For example, viewpoint 6 has what appear to be garden chairs in the foreground of the view. These are of course private rather than public views.
25. There is an extensive network of public rights of way in the area although these are mainly to the south of the appeal site and on lower ground. Views of the appeal site from that running north of the site but east-west across Neens Hill from the River Rea would be largely obscured by either the intervening landform or the woodland. The most important views would be available from the public rights of way running due south from the settlement towards the appeal site.
26. During my inspection of the site itself many members of the local community could be seen standing on these routes in high visibility tabards. However, when I walked these same routes later I was able to appreciate that over much of their length views across the valley towards the appeal site are heavily filtered by the hedges along the route, even in mid November when the leaves were beginning to fall. There are a number of gateways which allow glimpses across the valley and I imagine that it was in these gateways that people were standing. In addition both routes follow the contours down towards the two rivers which would again limit the points from which views across the landscape can be gained.
27. Nevertheless, having crossed the River Rea and risen up the steep contours the bridleway attains the same height as the appeal site and, as the appellant's

Figure 7 illustrates, there are open views across a wide area. Until the mitigation hedgerow planting matured to the planned height users of this public right of way would experience a significant change in their outlook from the open view across countryside available now to one through a deer fence and across a solar farm. Once matured, the hedgerow itself would block the open views now available to those on foot while having almost no impact on the views across the development for those on horseback. In my judgement there would be considerable harm to the experience that users of this right of way now enjoy. In that respect, I consider the judgement given in the appellant's LVIA fails to reflect the differing impacts that the development would have for walkers and horse riders.

28. I was asked to look back at the settlement from the high point of the appeal site by SOGHCG. In doing so I noted the upper floors of a few dwellings and the church steeple in the settlement and a few properties on the side of Neens Hill. In many of the reverse views across the site from the settlement the most prominent buildings are those of High Point Farm set against the backdrop of the woodland.
29. Turning now to the views available from within Neen Sollars, these would, in my judgement be limited from public viewpoints. Any views from the village hall car park, which is at more or less the same elevation as the appeal site, would be obscured by the village hall building. Very few views across the valley are available from the lane through the settlement. From the churchyard there is one clear view from the fence but this is at a lower elevation and the appeal site is but one small element in the view.
30. Most other views that are available in the evidence are from private property. I was able to view the landscape from one of these, Hilltop Farm, which, as the name suggests, is at one of the highest points in the settlement. In my judgement only limited views of the appeal fields are available from within this property.
31. I appreciate that the panel backs would be visible to a degree from some private properties and that they may draw the eye to the appeal site whereas, at present, it is no different in appearance from many of the other fields in the landscape. However, in my judgement, the colour wash used in the Sightline photographs, some of which were included in the report to members, very much over states that difference. First, the colour renders the two fields totally dominant in the view which they would not be given the dark hues to be applied to the panel backs. Second, they appear to both foreshorten and narrow the view. In my judgement, the fields represent a much smaller element in the overall landscape in the field of vision. Indeed, in some directions while the generality of the landscape can be appreciated, the two appeal fields hardly register. Finally (and no criticism is implied since the images were prepared on the basis of the submitted scheme) they overstate the extent of the panel coverage on the settlement-facing slope.
32. My overall judgement therefore is that for the reasons set out above, the adverse impact on the appearance of the landscape would be limited to that experienced by the users of the bridleway in close proximity to the appeal site. However, the purpose of CS policy CS17 bullet 1 is, among other things, to ensure that all development would not adversely affect the visual, recreational values and functions of the named assets which includes Shropshire's natural

environment. There would therefore be a conflict with the relevant development plan policy in this limited regard. However, there would be no conflict with SAMDev policy MD12 since the level of harm required to trigger a conflict (significant adverse effect) would not be reached.

The effect that the development would have on the significance of the designated heritage assets in the locality

33. There are a number of Listed Buildings both within Neen Sollars and the wider area and the majority of the linear settlement is within the Neen Sollars Conservation Area. The development proposed would have no direct effect on any of the Listed Buildings and would have no direct impact on the character or appearance of the Conservation Area. Both these aspects of the Conservation Area, to which I must have regard by statute, would therefore be preserved.
34. The Heritage Assessment explains how the heritage assets that would be subject to detailed settings assessment were selected and how that assessment was carried out. I have no evidence before me to dispute that process. The three assets subject to more detailed analysis were Wharf House and Dower House and the Conservation Area as a whole.
35. In each case the rural setting of the building and the Conservation Area adds to the significance of the asset. However, there is no evidence that a designed view forms part of the significance of the setting of either of the houses while it is the buildings themselves and their groupings together with the Church that are the most important elements of the character and appearance of the Conservation Area.
36. As set out under my first main issue the appeal development would affect only a very small part of the landscape. It would not be visually prominent from either Listed Building assessed in detail or from within the public domain of the Conservation Area. In my view, there would be no impact on the setting of any heritage asset and thus no conflict with the objectives of Framework section 12 which sets out national planning policy to achieve the core planning principle listed in Framework paragraph 17, bullet 10. For the same reasons there would be accordance with SAMDev policy MD13 criteria 1 which requires development proposal to avoid harm or loss of significance to designated or non-designated heritage assets including their settings wherever possible.

Whether the proposal would accord with national planning policy and guidance for the siting of ground-mounted solar farms

37. I have not been made aware of any CS policy that guides the delivery of renewable and low carbon energy and associated infrastructure. As set out above, SAMDev policy MD8 has no solar farm specific guidance. I have therefore had regard to the Framework and the Planning Practice Guidance.
38. Framework paragraph 17, bullet 6 encourages the use of renewable resources by, for example, the development of renewable energy in order to support the transition to a low carbon future in a changing climate. Framework section 10 develops this and is, in short, supportive of such developments. In particular, Framework paragraph 98 states that applicants are not required to demonstrate the overall need for renewable energy and that it should be recognised that even small-scale projects can provide a valuable contribution to

- cutting greenhouse gas emissions. Furthermore, applications should be approved if their impacts are or can be made acceptable.
39. In this case, the appellant's evidence is that the proposal would power some 1,165 homes and save about 54,000 tonnes of CO₂ emissions over the lifetime of the project. The Council does not dispute this evidence.
 40. Detailed guidance is given about the planning considerations to take into account when dealing with ground-mounted solar farms in the Planning Practice Guidance. In the Ministerial Written Statement dated 25 March 2015 it was made very clear that these included '...making effective use of previously developed land and, where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality.' Read in context 'higher quality' means the best and most versatile agricultural land, namely grades 1, 2 and 3a.
 41. The planning application was supported by an 'Opportunity Register' which sets out all the potential schemes on non-agricultural land that the appellant has pursued country-wide and, where these have been unsuccessful, the reasons why. The Council has not disputed that evidence.
 42. The appellant's initial position was that the appeal site was grade 4. On further investigation in preparing the response to SOYL this was revised to a grade 3b/4 split of about 35%/65% on the basis of land gradient and laboratory tests of the soil and soil wetness. Each of these was derived from on-site samples or measurement.
 43. SOYL disputes this assessment and, on the basis of land gradient, puts the 3b land at no more than 30% of the site. However, SOYL did not have access to the appeal site and this critique is based on an assertion that guidelines for measuring soil wetness have not been followed and an analysis of commercially available maps to establish land gradient.
 44. It seems to me that SOYL and the appellant actually agree on the proportion of the site that is grade 3b. However, SOYL then make the assumption that the remainder is 'probably' best and most versatile land whereas the appellant finds that it is grade 4. SOYL's assumption is however subject to the caveat '...unless proper measurements for assessing soil wetness are made according to the ALC guidelines...'. SOYL's assumption relies therefore on the assertion that the way the wetness test has been carried out is wrong (which I cannot resolve on the evidence before me) and on a correct test showing that the other 70% of the land is grade 3a or above. In my judgment that is not evidence which would allow me to conclude that the appeal site is best and most versatile agricultural land.
 45. My conclusion on this issue is that the proposal would accord with the policies in Framework section 10 and would accord with what amounts to the sequential approach set out in the Planning Practice Guidance and the Written Ministerial Statement.

Other Matters

46. In its appeal statement the Council alludes to an additional conflict with development plan policy that does not form part of the reasons for refusal. It suggests that the development would harm tourism because the high quality

and tranquil nature of the landscape around the application site would be adversely affected. A conflict with CS policies CS13 and CS16 is contended.

47. Ground-mounted solar farm developments are not noise generators so it is not clear to me why the Council considers that the tranquillity of the landscape would be affected. I have found under my first issue that the adverse effect that would arise would be limited to the experience of those users of what is a relatively short length of public right of way along the western edge of the development. While this is a part of the recreational resource of the County, no evidence has been put forward to substantiate any argument that tourism would be adversely affected as a consequence.
48. The appellant has indicated that a community benefit fund would be created and payable to the Parish Council. However, no mechanism such as an obligation under s106 of the principal Act has been put forward to secure this and I have given no weight to this matter in reaching my decision. Similarly, I give very little weight to the statement that sheep will graze the land once the development has taken place. Although the fields were so used at the time of my site view, no means to secure this has been put forward.
49. The appellant also acknowledges and has taken into account the SOGHCG observation that the disposal of solar panels is subject to the Waste Electrical and Electronic Equipment Regulations. However, given the period that would elapse before any disposal was required, it seems to me unnecessary to speculate now on the costs or indeed the method of doing so at a point some 30 years into the future.

Conditions

50. This planning application was recommended for approval by the officers and the report to members included a number of conditions. As far as I am aware, the appellant has not commented upon them. I have considered them in the light of the advice in the Planning Practice Guidance and have amended the wording of some for clarity.
51. In addition to the standard commencement condition a condition specifying the approved plans is required in the interest of certainty, particularly as revisions have been made to the submitted application drawings. However, the condition suggested by the Council is unnecessarily complex with some of the matters covered being addressed by other conditions in any event. The 'plans' condition also makes the Council's suggested conditions 3 (application site boundary) and 12 (fencing and CCTV system details) superfluous.
52. Other conditions are required to secure the route to be used during the construction period for the delivery of materials and the provision of the access prior to the commencement of the development. Also required is a scheme specifying a programme of archaeological works in view of the potential for such remains identified by the appellant's Heritage Assessment. Schemes are required to be agreed for landscaping, tree and hedgerow protection, Great Crested Newt surveys and habitat management to deliver the mitigation and other measures identified by the appellant in the various reports that accompany the planning application.
53. The development is, in my opinion, unlikely to generate any noise nuisance given the positioning of the equipment within the site and the relationship to

any non-involved property. I note too the Council's Public Protection officer has raised no objections to the appeal proposal. Moreover, the officer report also states that '...there is no reason to suspect that there would be any unacceptable noise impact given...the separation distance to the nearest properties and the screening effect of the intervening topography.' Nevertheless, suggested conditions 14 and 15 which respectively set a noise limit and a complaints resolution procedure in the event of any being made are put forward. The wording of both seems somewhat uncertain and neither seems necessary in the particular circumstances of the appeal site. Neither would meet the tests set out in the Planning Practice Guidance and I shall not impose them.

54. Finally, suggested condition 16 sets a limit of 30 years for the life of the development (this being the design life of modern solar panels in the Council's view) and requires restoration of the site to agriculture thereafter. I note that the Council does not require decommissioning in the event of electricity production permanently ceasing before that 30 year period ends. That is unusual in my experience but that is a matter for the Council. Since the end date is determined by the planned design life of the panels, part (a) of the suggested condition (prohibiting the replacement of any panels at the end of their design life) seems unnecessary and therefore not justified by the tests set out in the Planning Practice Guidance.

Conclusion

55. For the reasons set out above, I have concluded that there would be a conflict with one aspect of CS policy CS17 but no conflict with another aspect of the same policy, with CS policy CS6 or with any of the SAMDev policies brought to my attention by the parties. I therefore conclude that the appeal proposal would not conflict with the development plan as a whole.
56. In any event, on heritage matters the appeal proposal would accord with the core principles of national planning policy and SAMDev policy MD13. It would also contribute to the Framework core principle of supporting the transition to a low carbon future in a changing climate through the use of renewable resources by, for example, the development of renewable energy infrastructure. These are material considerations that in my judgement outweigh any residual conflict with the development plan.
57. For the reasons given above I therefore conclude that the appeal should be allowed.

Brian Cook

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site boundary at 1:10,000; Site Design Rev A5 1:2500; Site Design Rev A5 1:4000; Site Design (access) 1:1000; 232-05-PV (Access Plan); 2V Racking System Rev 2; GCS0016-1; GCS0016-2; GCS0016-3; GCS0016-4; GCS0016-5; GCS0016-6; TGC/PV001 (2.0m deer fencing amended); TGC/PV002 Rev A1; TGC/PV003 rev A1; TGC/PV004 Rev A2; TGC/PV009/01 Rev A1; TGC/PV010 Rev A3.
- 3) No development shall take place until a construction management plan which shows the route along the highway to be used for the delivery of materials and plant to be used in the construction of the development hereby permitted and the measures to minimize the impact on the local highway network has been submitted to and approved in writing by the local planning authority. The construction management plan shall be carried out as approved.
- 4) The sole access from the public highway to and from the development during construction and throughout the operational phase of the development hereby permitted shall be that shown on the approved plan 'site boundary at 1:10,000'.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping approved under condition 5 shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) Where the scheme approved under approved under condition 5 indicates that construction work is to take place within the root protection area (RPA) of any retained trees, large shrubs or hedgerows no development shall take place until an arboricultural method statement (AMS) detailing how the trees, shrubs and hedgerows will be protected during the construction works has been submitted to and approved in writing by the local planning authority. The scheme shall also ensure that no ground disturbance, siting of plant, equipment, buildings or bunds shall take place within 2m of any hedgerow and within a fenced off minimum 10m buffer between the woodland edge of Gaudywood Park and the access track. The scheme shall be implemented as approved.
- 8) No development shall take place until a habitat management plan has been submitted to and approved in writing by the local planning

authority. The plan shall include: description and evaluation of the features to be managed; ecological trends and constraints on the site that may influence management; aims and objectives of management; appropriate management options for achieving aims and objectives; prescriptions for management actions; preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually); personnel responsible for implementation of the plan; monitoring and remedial/contingencies measures triggered by monitoring. The plan shall be carried out as approved.

- 9) The development hereby approved shall be carried out in accordance with the All Ecology Great Crested Newt Method Statement dated January 2015.
- 10) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The programme shall be carried out as approved. Where significant archaeological remains are identified by the investigation the approved programme shall provide for non-intrusive construction methods to be employed within areas to be approved in writing by the local planning authority prior to the commencement of the development hereby permitted.
- 11) The photovoltaic panels and all other structures erected in accordance with the development hereby approved shall be removed within 30 years of the date of this planning permission and the land reinstated to agricultural use. Not less than 7 days' notice shall be given to the local planning authority in writing of the date on which the works of decommissioning shall start.

Appeal Decision

Hearing held on 23 February 2016

Site visit made on 23 February 2016

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 18 March 2016

Appeal Ref: APP/L3245/W/15/3136670
Heathton, Claverley, Wolverhampton WV5 7EB

- 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 Walker against the decision of Shropshire Council.
 - The application Ref 14/02226/OUT, dated 16 May 2014, was refused by notice dated 24 April 2015.
 - The development proposed is a single dwelling for a rural worker.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved except for access. I have dealt with the appeal in the same manner.

Main Issues

3. Based on all that I have read, heard, and seen, the main issues in this case are as follows:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in

paragraph 89. Policy CS5 of the Shropshire Adopted Core Strategy, March 2011 (the Core Strategy) states that development will be strictly controlled in the Green Belt in accordance with national planning policies. There is no dispute amongst the parties that the proposal does not fall within one of the exceptions within paragraph 89 and I therefore conclude that the proposal constitutes inappropriate development in the Green Belt.

Openness of the Green Belt

5. Paragraph 79 of the Framework states that openness is an essential characteristic of the Green Belt. Whilst in outline form, and the appellant referred at the Hearing to existing screening of the site, openness in terms of the Green Belt means freedom from development, and the mass of a new house would inevitably reduce this openness.
6. I therefore conclude that the proposal would have an adverse effect on the openness of the Green Belt and would consequently be contrary to the Framework.

Other considerations

7. M G Walker & Sons operate a viable high quality game farm business, primarily based on pheasants. The flock of birds belonging to the business is stated to be one of the largest laying flocks on the ground in the country. The farm operates from three sites; at Hatchery Farm, Three Oaks and at the appeal site. Hatchery Farm covers some 26 hectares and includes a relatively modern farmhouse. The submitted evidence states that Three Oaks covers some 12 hectares and contains a further dwelling. At the Hearing it was revealed that in November/December of last year further land had been purchased at this site. The appeal site, referred to variously as Heathton and Lower Aston, covers some 10 hectares and is split into two by a small lane linking Heathton to Lower Aston. The land has three accesses; one onto the lane from Heathton towards Claverley on the southern side, and two accesses from the small lane referred to above.
8. The three sites are roughly sited in a triangle, with the appeal site being the most easterly, located around 3.5 miles from Hatchery Farm and some 5.5 miles from Three Oaks. It was clear from discussions at the Hearing that the use of the three sites was beneficial to the appellants, allowing them to split apart various aspects of the business and maintain high standards of bio security to ensure their flock remains disease free as much as possible.
9. The appeal site is used for the breeding stock of pheasants for the business; laying pens cover both sides of the site from around February each year. Egg collection commences in March and incubation at Hatchery Farm begins in April. This continues until around August-September, when some of the birds are sold and others retained for over-wintering at Hatchery Farm and Three Oaks. At the Hearing it was explained that the additional land purchased at Three Oaks would allow the appellants to retain some over wintering birds at the appeal site, providing flexibility for the business and allowing them to operate a system of rotation to allow the land to recover. It was stated at the Hearing that the site had been used for laying hens for some 4 years.
10. It was clear from the Hearing that the egg laying season of around March to August/September is an intense season. The documents indicate that around

750,000 eggs would be expected during this season, and that five additional part time staff are taken on from April to August to cater for the increased labour required. There are two main elements of the stated need for a permanent dwelling on site; bird welfare and health, and site security. To a certain extent these elements also interlink.

11. In terms of bird welfare, the Defra Code of Practice¹ states that all birds should be checked at least twice daily during the breeding and rearing season for signs of disease or injury and to ensure that their welfare needs are being met, and at least once a day at other times. Evidence submitted from the appellant's veterinarian states that the workload during the short breeding season is onerous, even if there is nothing untoward, and there are also emergencies that need reacting to. Gamebirds' health and welfare is seriously compromised if there is any breakdown in feed and water delivery, and they are very sensitive to external stresses.
12. Each generously sized pen on site houses two mains fed water dispensers and one feed hopper. A breakdown in either feed or water hopper would cause stress to the birds, however it seems unlikely that both water dispensers would break down and the twice daily checks during the breeding season would include these facilities. External stresses detailed at the Hearing included wildlife (foxes, hedgehogs, other birds), vermin, severe weather, low flying aircraft and site break ins.
13. I can appreciate that the presence of a full time stockperson on the site could assist in certain situations, including providing more protection against stresses caused by wildlife, vermin and site break ins, and by being more readily available to potentially protect birds during severe weather. I note however that the majority of the site is free from birds outside of the breeding and rearing season, described by the veterinarian themselves as 'short'. Whilst the recent acquisition in land would result in birds being present all year round at the site, these birds would be lower in number than in the spring/summer, and based on the Defra code, would require less checks of their welfare.
14. The appellants describe security issues at the site in the past. The site is accessed by locked gates, with a low level electric fence and a higher chicken wire type perimeter fence surrounding the pens, which are netted on top. Birds have been stolen previously and a barn has suffered an arson attack. Other incursions onto the site are also reported. The fallibility of the electric fence was noted with malfunctions from falling branches or knocks sometimes breaking the circuit and allowing access to predators. Checks are needed twice daily to ensure the fence is working correctly and the site is secure, usually requiring a 7 mile round trip from Hatchery Farm.
15. The presence of a full time stockperson on site would dissuade human interference and criminal access to the site and aid in quick response to issues of security and for general checks, providing greater protection and aiding bird welfare. However, I am unconvinced that a house on the southern edge of the site would assist greatly in the protection of the north eastern segment of the site, much of which due to gradients and distance would not be visible from the proposed house. I accept that response times would be quicker to incidents on this land than from other sites and properties in the appellant's ownership and

¹ Department for Environment, Food and Rural Affairs, 'Code of Practice for the Welfare of Gamebirds Reared for Sporting Purposes', 2009.

that a dwelling would act as deterrence, although I consider this effect would be limited across the whole site, and a not dissimilar deterrence effect could also be attained if a caravan was placed on site.

Conclusions

16. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition there would also be a loss of openness caused by the proposal.
17. On the other hand, the proposal would allow a full time stockperson to be present on the appeal site, bringing benefits in terms of security and bird welfare. It has been demonstrated that labour on the site is intense during the breeding and rearing season and that the health and security needs of the site are reasonably high during this period. However, this season does not cover significantly more than half the year. During such relatively clement months a caravan could potentially be utilised to aid with on site issues. Although I note the recent change in the business allowing over wintering birds on the site, I do not consider that this extends the same needs to a permanent, year round need as the evidence suggests that the welfare requirements of the over wintering birds is less than those in the breeding and rearing season, and the lesser number of birds on the site and decreased equipment also means that security demands are reduced.
18. The Framework states that new isolated homes should be avoided in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Policy CS5 of the Core Strategy states that dwellings to house agricultural workers will be allowed where they are in accordance with national planning policies and subject to need and benefit being demonstrated. I do not consider that this essential permanent need required by the Framework or the Core Strategy has been demonstrated in this case. Consequently this does not clearly outweigh the harm that the proposal would cause to the Green Belt and the effect on openness that would result, and very special circumstances do not exist.
19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

M G Walker	Appellant
William Walker	Appellant's son
Anthony Atkinson	Acorus Rural Property Services
Michael Clark MA, VetMB, MBA, MRCVS	Minster Veterinary Practice Ltd

FOR THE LOCAL PLANNING AUTHORITY

Richard Fortune BA (Hons), BTP, MRTPI	Shropshire Council
Peter Williams BSc MBIAL	Reading Agricultural Consultants

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Appeal Decision

Site visit made on 9 December 2015

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 22 March 2016

Appeal Ref: APP/L3245/W/15/3014413

Land lying to the South of Whitton House, Ludlow. Grid Ref Easting: 356500; Grid Ref Northing: 273400

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by EBS Energy LLP against the decision of Shropshire Council.
 - The application Ref 14/02873/FUL, dated 25 June 2014, was refused by notice dated 27 October 2014.
 - The development proposed is the erection of ground mounted solar panels with an electrical output of 8600kW along with associated infrastructure, landscaping and ancillary structures on agricultural land.
-

Procedural Matters

1. I have used the site address from the Planning Appeal Form in the header above as it is more accurate than that shown on the original application form.
2. The appellant has drawn my attention to a revised scheme for a reduced amount of solar panels which was submitted to, and refused planning permission by, the Council. However this revised scheme and the details associated with it, including the Landscaping and Management Plan are not before me. I have limited myself therefore, to the scheme at issue in the appeal.
3. During the course of the appeal, the Council adopted the Site Allocations and Management of Development Plan (SAMDev). Both parties were given the opportunity to comment on this Plan and I have taken the comments received into account in my Decision. Although the SAMDev policies were not referred to within the Council's decision notice, given the adoption of this plan I have considered the appeal against the relevant policies of the Core Strategy¹, the SAMDev and national planning policy as contained within the National Planning Policy Framework (the Framework).

Decision

4. The appeal is dismissed.

Main Issue

5. The main issue in this case is the effect of the proposal on the character and appearance of the landscape, including views into and out of, or the setting of,

¹ Shropshire Local Development Framework: Adopted Core Strategy March 2011

the Shropshire Hills Area of Outstanding Natural Beauty (AONB). This analysis needs to take place in light of any benefits the proposal might bring forward.

Reasons

The Policy Background

6. Core Strategy Policy CS5 strictly controls new development in the countryside and only permits it where it would not harm the vitality and character of the countryside, and where it would improve the sustainability of rural communities by bringing local economic and community benefits, including, amongst other things farm diversification schemes, and required infrastructure which cannot be accommodated within settlements. Policy CS6 requires new development to be designed to a high quality which, amongst other things, respects and enhances local distinctiveness and which mitigates and adapts to climate change. Policy MD2 of the SAMDev has similar objectives and requires development to contribute to and respect locally distinctive or valued character and existing amenity value, by amongst other things, enhancing, incorporating or recreating natural assets.
7. Policy CS17 of the Core Strategy relates to the protection and enhancement of Shropshire's environmental assets including the diversity, quality and character of the natural, built and historic environment. The policy requires all development to respect the visual, ecological, geological, heritage and recreational functions of these assets, including the Shropshire Hills AONB.
8. These policies broadly reflect the Framework's general approach as set out in its core planning principles, in particular, the account that should be taken of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Paragraph 109 of the Framework further advises that the planning system should contribute to and enhance the natural and local environment by, amongst other things protecting and enhancing valued landscapes. Paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in, amongst other designated areas, AONBs.
9. The appellant has referred me to Policy CS8 of the Core Strategy which positively encourages renewable energy generation where this has no significant adverse impact on recognised environmental assets. The Council consider that this policy cannot be afforded significant weight because it makes no provision for the balance that needs to be struck between identified harm and acknowledged public benefits as set out in the Framework. Whilst noting the Council's concerns, I attach moderate weight to this policy particularly as it supports renewable energy. The recently adopted Policy MD8 of the SAMDev also encourages the transition to a low carbon future by supporting applications for new strategic energy, where its contribution to agreed objectives outweighs the potential for adverse impacts. Policy MD12 of the SAMDev states that where harm is caused to natural assets, development will only be permitted where the social or economic benefits of development outweigh the harm.
10. The Planning Practice Guidance (PPG) provides further guidance in respect of solar farms, advising that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, it continues that the visual impact of a well-planned and

well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Landscape impact

11. The appeal site comprises 4 grazing fields accessed off an unnamed road which links Caynham Road to Wooton and Whitton. The site is located to the south and west of this road and is approximately 17.4 hectares. There are mature hedgerows along the road, and hedgerows and trees between the field boundaries.
12. The appellant's Landscape and Visual Impact Appraisal (LVIA) has identified the site as being located within the Principal Settled Farmlands Character Area. This is not disputed by the Council. The key characteristics of such areas are mixed farming land use and a varied pattern of sub-regular, hedged fields. These key characteristics are evident in the local landscape upon and around the appeal site. At a more detailed level, the Shropshire Landscape Assessment (SLA) identifies the appeal site as falling within the landscape description unit SH/81. Such areas are identified as having 'moderate' overall strength of character, 'poor' condition; 'moderate' visual sensitivity; 'moderate' inherent sensitivity and 'moderate' overall sensitivity to change. The management vision for SH/81 is 'Restore and Enhance'.
13. From what I observed on my site visit, I agree with the conclusions of the LVIA that the local landscape appears more attractive than that described above within the SLA. The field boundaries are established and there are a number of mature trees within the appeal site. The Shropshire Hills AONB is approximately 450 metres away to the north east, running along Whitewayhead Lane and the road to Whitton. The AONB is characterised by rising land with Clee Hill and its surroundings dominating the skyline.
14. The site largely lies within a natural fold in the landscape, with adjoining land to the north and south rising up from the appeal site. As such, and having regard to the existing hedgerow and trees upon the site, the proposal would not be prominent in the wider landscape. There would be sufficient separation between the AONB and the appeal site to ensure that the difference between the landscape of the AONB, and that of the adjacent landscape description unit, remained easy to distinguish. As a consequence, there would be no materially harmful impact on views into or out of the AONB, or its setting.
15. However, the introduction of solar arrays, along with ancillary structures and high fencing would be incongruous in this otherwise pastoral landscape. This would be particularly apparent from the network of public rights of way in the area particularly those closest to the site, including the footpath to the south, which is elevated relative to the southern part of the appeal site, from that part of the footpath that crosses the bottom corner of the site, and from the bridleway to the south of the site.
16. At present the views from these public rights of way are across open, undulating fields, enclosed by hedgerows, comprising an attractive, largely unspoilt landscape. The proposed development, with a close presence of solar panels beyond a security fence, would alienate the foreground landscape from its surroundings with the constituent elements having a highly intrusive presence from both the footpaths and bridleway.

17. Although new planting is proposed², this is largely along the northern and western boundaries of the site and as such would have little effect in reducing the impact of the development from the adjoining public rights of way. The retention and management of the existing hedgerow to a height of 3 metres as proposed would serve to reduce the impact of the development from close up views, but not from the footpath that runs through the site, or from the footpath and bridleway to the south, given the elevated nature of these routes relative to the site. Whilst these views would be likely to be screened more during the months when the trees and hedgerows were in leaf, I find that the development would still be visible and would have an industrialising effect upon this attractive area of countryside.
18. In terms of the proposal's impact from other public of rights of way within the area and from higher ground, including Caynham Camp, I observed on my site visit that the scheme would not be particularly prominent in the wider landscape. Views would be fragmented through existing vegetation and any views of the site would be limited, given the intervening distance and wider panorama. There would be no adverse impact on the setting of Caynham Camp, or its significance as a result of the proposal. Furthermore, there would be no adverse impact on public rights of way further away from the site.
19. I note that the appellant would be prepared to undertake additional landscaping and my attention has been drawn to the landscaping plan for the reduced scheme on the site. Whilst I note the appellant's intentions, this scheme is not before me. In any event, I find that a landscaping condition requiring further planting along the southern boundary of the site would not mitigate my concerns, particularly given that this boundary is at a considerably lower level than the footpath and bridleway to the south. Any new landscaping would need to be of considerable height and maturity to reduce the impact of the scheme on these rights of way and I am not convinced that this could be satisfactorily achieved, using species that are characteristic of the area.
20. My attention has been drawn to an appeal decision at Hayford Farm, Westbury, where an Inspector considered that the relationship of the solar farm was acceptable with footpaths which ran through the site. I do not have detailed drawings of this scheme or the particular circumstances of that case and as such I am unable to ascertain if this scheme is directly comparable to that before me and therefore attach limited weight to it in my overall Decision. In any event, each planning application and appeal must be determined on its individual merits, and this is the approach that I have adopted.
21. Whilst the impact of the proposed development would be localised, I conclude that significant harm would be caused to the character and appearance of the landscape within the vicinity of the appeal site, and as a consequence its enjoyment by users of the affected public rights of way. This landscape harm brings the scheme into conflict with the character objectives of Core Strategy Policies CS5, CS6, CS8 and CS17, and Policy MD8 of the SAMDev. There would also be conflict with the character and natural environment core planning principles of the Framework.

² As indicated on Dwg number 1420.03

Benefits of the Proposal

22. A core planning principle of the Framework is to support the transition to a low carbon future in a changing climate, and amongst other things, encourage the reuse of existing resources and encourage the use of renewable resources, including the development of renewable energy. Paragraph 98 of the Framework recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and the Framework advises that applications should be approved³ if their impacts are (or can be made) acceptable. The support that Policy CS8 of the Core Strategy and Policy MD8 of the SAMDev give to renewable energy generation supports the Framework in this respect.
23. In this context, the renewable energy generating potential of the proposal would be in the region of 8600kW, and this is a matter that attracts considerable weight in favour of the proposal. Whilst there is some concern about the continued use of the land for agriculture, the appellant has indicated that sheep would continue to graze the land and this continued agricultural use weighs in favour of the proposal. The additional landscaping would be likely to enhance biodiversity in the area and this matter weighs in the scheme's favour.
24. Furthermore, the proposal would assist with rural diversification and assist in the ongoing viability of the farming enterprise, including investment in a TB unit which would be of benefit to the operation of the enterprise. This accords with the Framework, which advises that planning policies should support economic growth in rural areas through the development and diversification of agricultural and other land-based businesses. Jobs would be created both directly and indirectly as a result of the proposal. Taken as a whole, there would be economic benefits associated with the proposal.
25. The scheme would make a contribution to increasing the deployment of renewable energy in the United Kingdom (UK) and assist in helping to meet the UK's target of 15 per-cent renewable energy from final consumption by 2020 and support the decarbonisation of the UK's economy in the longer term⁴.

Conclusion

26. The proposal would bring considerable benefits in terms of the generation of renewable energy and it would assist in agricultural diversification. However, even though the proposal is expected to have a life span of 25 years, and is largely reversible, in my judgement, those benefits would be outweighed by the significant adverse impact that would result in landscape terms. These impacts are not acceptable and on the basis of the evidence before me, cannot be made acceptable. As well as the policies quoted above, the proposal conflicts with Policies MD8 and MD12 of the SAMDev in that the scheme's contribution to agreed objectives (supporting the transition to a low carbon future) do not outweigh the harm identified; the social and economic benefits associated with the scheme do not clearly outweigh the harm to natural assets.
27. In reaching this conclusion I have had regard to a scheme at Sundorne, Shropshire where a solar farm has been granted planning permission, and a

³ Unless material considerations indicate otherwise

⁴ As set out in UK Solar PV Strategy Part 1: Roadmap to a Brighter Future

number of appeal decisions⁵ where my colleagues concluded in favour of the solar farms. However, again I have not been provided with the particular circumstances of these cases and as such I am unable to assess if they are directly comparable to the scheme before me. I have therefore only afforded limited weight to the examples quoted in my overall Decision.

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

R C Kirby

INSPECTOR

⁵ Appeal Refs: APP/Z2830/A/11/2155999; APP/H1705/A/14/2217110; APP/D3125/A/14/2214281; APP/Z3825/A/14/2219843 and APP/D0840/A/14/2213745; APP/L3245/W/15/3022913

Appeal Decision

Site visit made on 25 January 2016

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 31 March 2016

Appeal Ref: APP/L3245/W/15/3137621

Land at the rear of 19 and 21 Park Lane, Shifnal.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Georgina Hallam (Redrow Homes Midlands) against the decision of Shropshire Council.
 - The application Ref 15/00795/FUL, dated 18 February 2015, was refused by notice dated 31 July 2015.
 - The development proposed is described as 'residential development for 7 dwellings'.
-

Decision

1. The appeal is allowed and outline planning permission is granted for residential development for 7 dwellings at Land at the rear of 19 and 21 Park Lane, Shifnal in accordance with the terms of the application, Ref 15/00795/FUL, dated 18 February 2015, subject to the 16 conditions set out in the attached schedule.

Preliminary matters

2. Since the original decision was made the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) was adopted by the Council on the 17 December 2015. In light of the advanced stage of its preparation, this document was referred to in the reasons for refusal along with policies from the Shropshire Core Strategy (CS). As indicated in their statement, the appellant was clearly aware of the preparation of this document and the 'Final Comments' stage gave both parties the opportunity to address any implications arising from the adoption of this document. Accordingly the SAMDev, whose policies have been found to be sound, along with the CS, form the statutory development plan for the area. I have considered the appeal on this basis.
3. A Unilateral Undertaking was submitted under section 106 of the Town and Country Planning Act 1990 (s106). I deal with the contents of this below.

Main issue

4. The main issue in the appeal is whether the development proposed would prejudice the longer term development needs of Shifnal.

Reasons

5. The appeal site is located outside of the Shifnal development boundary, on land that has been safeguarded for the future development needs of Shifnal in the recently adopted SAMDev. Planning permission 13/04840/FUL for the erection of 66 dwellings overlaps with the appeal site, with 3 of the 7 dwellings

proposed already benefiting from planning consent albeit in a slightly different layout, with the other part of the site being residential garden land. The site adjoins the rear gardens of residential properties fronting Park Lane. Shifnal provides a wide variety of facilities and services along with access to public transport with regular rail and bus services to the wider area including Telford, Wolverhampton and Shrewsbury.

6. The Council can demonstrate a 5 year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework). Under these circumstances, the decision-taking criteria contained in paragraph 14 of the Framework are not engaged. Whilst this is so, the Framework seeks to boost significantly the supply of housing and the ability to demonstrate a 5 year housing land supply should not be seen as a maximum supply. Regardless of such a supply being available, the Framework advocates a presumption in favour of sustainable development and the application must be considered in these terms.
7. I have carefully considered the Council's representations in particular the effect of the proposal on land safeguarded for future development needs and current level of housing delivery in Shifnal. However, in this site specific circumstance events at the appeal site and on the immediately adjoining land have overtaken the recently adopted SAMDev plan. As set out above a significant proportion of the safeguarded land surrounding the site is currently being developed with the erection of 66 dwellings (13/04840/FUL). The development under construction along with the existing residential properties on Park Lane would in effect leave a small parcel of enclosed land surrounded by residential development. Moreover, this would be likely to limit the future use of the site to either a residential use or a use that would not materially affect the living conditions of occupiers of the residential properties that adjoin the appeal site. Consequently, although the site would be outside the development boundary of Shifnal it would be enclosed within the residential built up area of the town. Further, based on the evidence before me and my observations I agree with the Council who have clearly stated that the site and proposal are sustainable and that no harm would result from the development. Moreover, there is no evidence that demonstrates that the proposed development would result in material harm to the town's infrastructure, facilities or services.
8. Therefore, taking into account the limited size of the proposed development (4 additional dwellings) and the overall sustainability of the location; it would not undermine or prejudice the purpose of the safeguarded land as established in the SAMDev, as the aforementioned land is already in the process of being developed. Moreover, the provision of 4 additional dwellings would boost the supply of housing consistent with the aims and objectives of the Framework and therefore in this site specific circumstance make a contribution to Shifnal's longer term development needs.
9. Consequently, having reached the conclusion above the proposal would not conflict with Policies CS3 and CS5 of the CS or Policy S15 of the SAMDev. These policies seek amongst other things to ensure that development would not prejudice the potential future use of land meeting the longer term development needs of Shifnal. In reaching my conclusions I have also taken into account the policies of the emerging Shifnal Neighbourhood Plan 2014 – 2026.

Unilateral undertaking

10. None of the planning obligations contained within the undertaking appears to be in dispute, but I have considered them against the tests in Regulation 122 of the CIL Regulations 2010 nonetheless. The Council has identified a need for affordable homes. The contribution of £54000 towards affordable housing sought in the appeal scheme amounts to just over 0.6 of a dwelling, would be consistent with the requirements of the Local Plan. I therefore consider that this obligation meets the necessary tests in law and I have taken account of it in reaching my decision. Having regard to the Government's aim in the Framework to boost significantly the supply of both market and affordable housing, the provision of the latter would be a benefit of the scheme for the purpose of any planning balance.

Other considerations

11. I have been referred to a number of other appeal decisions and these have been cited as setting a precedent for the appeal proposal. However, I have limited information about their histories, but inevitably their contexts would differ to that of the scheme before me, and so they do not lead me to a different view in this case.
12. I have carefully considered the issues that were raised by local residents. These included effect on living conditions with particular regard to outlook, light and overlooking. However, based on the information before me and my observations the siting, orientation and separation distances proposed would ensure that subject to the imposition of conditions, the proposal would not lead to a material loss of outlook or light and would provide adequate protection from overlooking for local residents.
13. In relation to the effect of the proposal on ecology, hedgerows and boundary treatments. I have examined the representations of local residents in detail; however, there is no substantive evidence that would contradict the conclusions reached by the Council with regard to these matters in their planning committee report and appeal statement. I have therefore imposed the conditions in relation to ecology and boundary treatments as suggested by the Council. These conditions seek to ensure adequate protection for local residents.
14. The Council's committee report states that the proposed development would not result in an adverse effect on the setting of The Uplands a Grade II listed building. Therefore, whilst I have observed the inter-visibility between The Uplands and the appeal site, the visual separation and the intervening built form would ensure the setting is preserved. Consequently, the proposed development would not fail to preserve the character or appearance, and consequently the significance, of the Grade II listed building The Uplands.

Conditions

15. The conditions suggested by the Council have been considered in light of the advice contained within the national Planning Practice Guidance and the Framework. In addition to the standard outline implementation condition, it is necessary for the avoidance of doubt and in the interests of proper planning, to define the plans with which the scheme should accord.

16. To minimise the risk of flooding, it is necessary for details of foul and surface water drainage to be agreed with the Local Planning Authority. Further it is necessary to control and agree details of methods of construction and traffic management in the interests of local residents. In the interests of highway safety it is necessary for the access, carriageways, turning heads, drainage, street lighting and parking are carried out in accordance with the previously agreed details. In the interests of highway safety to ensure that a cycle barrier is installed. It is necessary in the interests of amenity to ensure that there is adequate protection for the trees on site during construction and that all works are carried out in accordance with the submitted arboricultural reports and specifications. It is necessary in the interests of amenity to ensure that planting is carried out and maintained in accordance with the specified planting scheme. Finally it is necessary for details of archaeological investigation to be agreed with the Local Planning Authority.

Conclusion

17. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR

Schedule – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1612/08/02/602 Rev E Proposed Site Plan
 - 5223/PP.01 Rev.B Planting Plan Overview
 - 5223/PP.02 Rev B Planting Plan 1 of 2
 - 5223/PP.03 Rev B Planting Plan 2 of 2
 - 1612/08/02/615 Rev C Materials Plan
 - 1612/08/02/610 Rev C Enclosures Plan
 - 1612/08/02/612 Rev B Proposed Finished Floor Levels
 - 1612/08/02/608 Rev A Street Scene and Sections
 - 1612/08/01/630 Location Plan
 - 1612/08/01/610 Topographical Survey
 - EF-SUND-DM 1.0 April 2014 Sunningdale Floor Plans
 - EF-SUND- DM 1.0 April 2014 Sunningdale Elevations 2014 Release Rev Garage
 - EF-OXFD –DM 1.0 April 2014 Oxford
 - EF-MARL-DM 1.0 April 2014 Marlborough Floor Plans
 - EF-MAR-DM 1.0 April 2014 Marlborough Elevations
 - EF-LEAM-DM 1.0 April 2014 Leamington Render
 - EF-LEAM-DM 1.0 April 2014 Leamington Brick
- 3) The improved access off A464, access roads, footways, parking areas, highway surface water drainage, lighting and visibility splays which would serve the dwellings hereby approved shall be fully implemented in accordance with the details approved under planning permission 13/04840/FUL, with the estate roads, roadways, vehicle manoeuvring and turning areas constructed to at least base course macadam level and made available for use before the dwellings that they would serve are first occupied.

- 4) 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.
- 5) No Demolition or construction work shall not take place outside the following times:
 - i) Monday to Friday 0730hrs to 18.00hrs;
 - ii) Saturday 08.00hrs to 13.00hrs;
 - iii) Nor at any time on Sundays, bank or public holidays.
- 6) No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved in writing by the Local Planning Authority. The approved schemes shall be completed before the development is occupied.
- 7) No development approved by this permission shall commence until a programme of archaeological work has been secured on a specification (written scheme of investigation) submitted to and approved in writing by the Local Planning Authority. The written scheme of investigation shall make provision for a series of trial trenches to test for the presence or absence of un-recorded archaeological deposits, prior to work commencing on site. The programme of archaeological work shall thereafter be carried on in complete accordance with the approved specification.
- 8) Before the dwellings are first occupied a cycle barrier shall be installed at the point where the footpath/cycle link meets the two private drives connecting to the estate road, in a precise location and to a specification which has first been approved in writing by the Local Planning Authority.

- 9) Prior to commencement of construction works, tree works shall be undertaken by a competent arborist as specified in Section 5.2 of the Arboricultural Summary Report (5223 FE ASR 01 A, First Environment Ltd, April 2015) and as shown on the Tree Protection Plan (FE Extra TPP 03, Appendix A to the aforementioned tree report). Following completion of the tree works, but in advance of any other development-related activity on the site, the tree protection measures must be installed as specified in Section 5.3 of the aforementioned tree report and shown on the aforementioned Tree Protection Plan. Thereafter the tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development and shall not be moved or removed without the prior written agreement of the Local Planning Authority. With regard to fence installation and the sequencing of development activity in relation to trees, the development shall be implemented in accordance with Sections 5.4 and 6.5 of the aforementioned tree report.
- 10) The planting shall be undertaken in accordance with and as specified in the amended planting plans and planting plan overview (drawings 5223/ PP01 REV B, PP02 REV B and PP03 REV B). The planting shall be implemented in full prior to occupation of any completed property. Any planted tree or shrub, or replacement tree or shrub thereof, which within a period of 5 years from planting dies, becomes seriously diseased, or is otherwise lost or destroyed, shall be replaced by another of a similar specification.
- 11) No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.
- 12) All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Preliminary Ecological Appraisal by First Environment revised June 2015 5223 FEC PEA 01.
- 13) Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.
- 14) Prior to the first occupation of the dwellings details of a minimum of two bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in accordance with a timetable to be approved in writing by the Local Planning Authority.
- 15) Prior to the first occupation of the dwellings details of five 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 accordance with a timetable which has been approved in writing by the Local Planning Authority.

- 16) The first floor wet room window in the west side elevation of the Leamington house type on plot 68 shall be obscure glazed before the dwelling is first occupied and shall thereafter be maintained as such.



The Planning Inspectorate

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Your Ref: HH/SA201601
Our Ref: APP/L3245/W/15/3141511

Mrs Helen Howie
Berrys
Willow House East
Sitka Drive, Shrewsbury Business Park
SHREWSBURY
SY2 6LG

06 April 2016

Dear Mrs Howie,

Town and Country Planning Act 1990
Appeal by Equine Opportunities Ltd
Site Address: Land at Halfway House Lane, Eardington, Shropshire, WV16 5LS

Thank you for your letter withdrawing the above appeal(s).

I confirm no further action will be taken.

Any event arrangements made for the appeal(s) will be cancelled.

A copy of this letter has been sent to the local planning authority.

Yours sincerely,

Nick Holmes

Nick Holmes

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

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Appeal Decision

Site visit made on 11 April 2016

by Cullum J A Parker BA(Hons) MA MRTPI AIEMA

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

Decision date: 14 April 2016

Appeal Ref: APP/L3245/D/15/3141333

Hill House, Quatford, Bridgenorth, WV15 6QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Russell against the decision of Shropshire Council.
 - The application Ref 15/04328/FUL, dated 2 October 2015, was refused by notice dated 9 December 2015.
 - The development proposed is domestic two storey side extension.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main parties agree that the appeal site falls within an area of Green Belt. Accordingly, the main issues are:
 - Whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policies and the potential effect on the openness of the Green Belt and the purposes it serves, and;
 - The effect of the proposed development on the character and appearance of the area, and;
 - the overall balance, and, if the proposal is inappropriate development, whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify it.

Reasons

Whether inappropriate development

3. The Government attaches great importance to Green Belts. Paragraph 87 of the National Planning Policy Framework (the Framework) indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 89 and 90 of the Framework indicate limited exceptions to inappropriate development, which broadly reflect those found in Policy MD6 of the

Shropshire Council Site Allocations and Mangement of Development (SAMDev) Plan 2015 (SAMD), Policy S3 of the Bridgenorth District Local Plan 1996-2011, 2006 (BDLP) and Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS). Put simply, both local and national policy regard the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building, are exceptions to inappropriate development. Given this position, I consider the development plan policies in this case are broadly consistent with the Framework, in accordance with Paragraph 215 of the Framework, and should be afforded due weight.

4. The Council indicate that the extensions in this case would result in an additional 22m² of floorspace on the ground floor and about 77m² at first floor level. To the contrary, the appellant considers that the proposal would result in approximately 92m² of additional floorspace. Irrespective of the differences between the two figures, it is clear that there would be an increase in floorspace of over 90 m². What is more, the proposal would see the ground floor about 2.5 metres wider, with a full two storey height introduced to the existing part two, part single storey wing of the property.
5. The appellant asserts that such a small increase in width would represent only a small extension to the side of the property. Although it appears as though the dwelling has already been extended in the past, neither party has provided a fully detailed account of how this position has arisen and whether those extensions were a result of earlier 'exceptions to inappropriate development'. In any case, this extension proposed here would not only increase the footprint of the dwelling, but also see a significant increase in its overall height by the addition of an additional storey. The proposal would also, in effect, almost double the existing first floor area. The combination of both factors would result in extensions that would be disproportionate additions over and above the size of the original building. What is more, due to the increase in height and bulk of the building, the extensions would result in the loss of openness, which is a key characteristic of the Green Belt.
6. The proposed development does not fall within an exception listed under paragraphs 89 or 90 of the Framework. As such it is inappropriate development as defined by the Framework. Moreover, the proposal would result in the loss of openness; an essential characteristic of the Green Belt set out in Paragraph 79, and would fail to safeguard the countryside from encroachment as set out in Paragraph 80 of the Framework. Accordingly, the proposal would be contrary to Policy MD6 of the SAMD, Policy S3 of the BDLP and Policy CS5 of the CS, and those of the Framework aforesaid, which, amongst those aims stated above, seek to preserve the openness of the Green Belt.

Character and appearance

7. As noted above, the appeal scheme seeks the introduction of a two storey side extension. This would use materials to match those of the main dwelling and the extension would have a similar width, height and bulk to the existing building. However, due to the increase in two storey form across the width of the proposal and its matching height, instead of appearing as a subservient extension to the existing building, the proposal

would instead appear as an overly large addition which would fail to respect the existing form of the appeal building. Moreover, the openings proposed, including Juliet style balconies and half dormers on elevations of the building would introduce further contrasting architectural features to the host building. As a result, the proposed extension would fail to respect the prevailing pattern of development within the context of the appeal site.

8. I therefore conclude that the proposed development would result in material harm to the character and appearance of the area and host building. Accordingly, the proposal would be contrary to Policies CS6 and CS17 of the CS and Policy MD2 of the SAMD, which amongst other aims seek to ensure that proposals respect locally characteristic architectural design and details. It would also be contrary to the Policies of the Framework, which include ensuring that planning should always seek to secure high quality design.

Other considerations

9. In accordance with Paragraph 88 of the Framework, I attach substantial weight to the Green Belt, through the fact that the development is inappropriate development and through the harm to openness. The appellant has indicated to a number of factors which could amount to a case of 'Very Special Circumstances'. I have considered these below.
10. The appellant asserts that the proposed development would not have an adverse impact on the openness of the Green Belt. However, I have found that there would be in this instance and therefore this is not a factor in favour of the appeal scheme.
11. Matters relating to design, materials and the overall scale in relation to the existing dwelling have been considered above, and not found acceptable. They do not, therefore, weigh in favour of the proposal. I note the appellant's desire to improve access into their property, as this currently requires access through a utility room. However, access is possible into a hall, as shown on the ground floor plan on drawing SA20966 02. This demonstrates that there are other choices for access into the building, which could provide alternatives to the use of the utility room entrance. This factor can be afforded no more than minimal weight in favour of the appeal scheme.

Conclusion

12. Paragraph 88 of the Framework requires decision-makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations weighing in favour of the development must clearly outweigh this harm. In this case, no substantive benefits have been cited by the appellant, with those cited either of minimal weight or not weighing in favour of the proposal. Whilst I acknowledge all other considerations put forward by the appellant, Paragraph 88 makes clear that all development in the Green Belt is subject to stringent national planning policy tests, which I have applied.
13. In light of this, I conclude that those considerations put forward which weigh in favour of the proposal fail to clearly outweigh the substantial harm to the Green Belt that I have identified, and the harm to character and appearance.

The very special circumstances needed to justify the proposal do not therefore arise and the proposal conflicts with Policy MD6 of the SAMD, Policy S3 of the BDLP and Policy CS5 of the CS, and the Framework in respect of the Green Belt, the aims of which I have aforesaid.

14. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR