

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

Date: Wednesday, 17 August 2016

**Committee:**  
**Central Planning Committee**

**Date:** Thursday, 25 August 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**

Vernon Bushell (Chairman)  
Ted Clarke (Vice Chairman)  
Andrew Bannerman  
Tudor Bebb  
Dean Carroll  
Miles Kenny  
Amy Liebich  
Pamela Moseley  
Peter Nutting  
Kevin Pardy  
David Roberts

**Substitute Members of the Committee**

Peter Adams  
Tim Barker  
Roger Evans  
John Overall  
Jane MacKenzie  
Alan Mosley  
Keith Roberts

Your Committee Officer is:

**Shelley Davies** Committee Officer

Tel: 01743 257718

Email: [shelley.davies@shropshire.gov.uk](mailto:shelley.davies@shropshire.gov.uk)

# AGENDA

## **1 Apologies for absence**

To receive apologies for absence.

## **2 Minutes (Pages 1 - 6)**

To confirm the Minutes of the meeting of the Central Planning Committee held on 28 July 2016.

Contact Shelley Davies on 01743 257718.

## **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. The deadline for this meeting is 5pm on Monday 22<sup>nd</sup> August 2016.

## **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 Little Vinnals Bungalow, Longden, Shrewsbury - 16-02515-FUL (Pages 7 - 16)**

Erection of a holiday cabin to include change of use of land (revised scheme)

## **6 Land Adjacent 5 Robin Close, Shrewsbury - 16/02107/OUT (Pages 17 - 26)**

Outline Application for the erection of 1No detached dwelling (all matters reserved)

## **7 Land Adj. Manor Field, Uffington - 16/02931/FUL (Pages 27 - 38)**

Erection of detached dwelling with associated hard and soft landscaping and creation of new access

## **8 Schedule of Appeals and Appeal Decisions (Pages 39 - 68)**

## **9 Date of the Next Meeting**

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 29 September 2016 in the Shrewsbury Room, Shirehall.



## Committee and Date

Central Planning Committee

25<sup>th</sup> August 2016

## **CENTRAL PLANNING COMMITTEE**

### **Minutes of the meeting held on 28 July 2016**

**2.00 - 3.25 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

### **Present**

Councillor Vernon Bushell (Chairman)

Councillors Ted Clarke (Vice Chairman), Andrew Bannerman, Dean Carroll, Miles Kenny, Pamela Moseley, Kevin Pardy, David Roberts and Tim Barker (substitute for Tudor Bebb)

### **28 Apologies for absence**

Apologies for absence were received from Councillors Tudor Bebb (Substitute: Tim Barker), Amy Liebich and Peter Nutting.

### **29 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the Central Planning Committee held on 30<sup>th</sup> June 2016 be approved as a correct record and signed by the Chairman.

### **30 Public Question Time**

There were no public questions or petitions received.

### **31 Disclosable Pecuniary Interests**

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

Councillor Dean Carroll declared that the applicant for planning application 16/01873/OUT – Land to the South of Annscroft, Shrewsbury was known to him.

With reference to planning applications to be considered at this meeting, Councillor Andrew Bannerman stated that he was a member of the Planning Committee of Shrewsbury Town Council. He indicated that his views on any proposals when considered by the Town Council had been based on the information presented at that time and he would now be considering all proposals afresh with an open mind and the information as it stood at this time.

Councillor David Roberts declared that the applicant for planning application 16/01873/OUT – Land to the South of Annscroft, Shrewsbury was known to him.

### **32 Closure of Racecourse Lane, Shrewsbury - Objections received within statutory consultation**

The Project Manager for Capital Schemes introduced this application in relation to the proposed closure of Racecourse Lane, Shrewsbury at a point just south of the existing Lambourn Drive junction and the construction of a turning head. With reference to the drawings displayed, he drew members' attention to the location of the proposed closure and explained that this had been an ongoing issue for several decades.

It was confirmed that Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

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

- The Fire and Rescue Service and Ambulance Service had confirmed that they did not have concerns in relation to access for emergency vehicles;
- The road would be closed to motor vehicles by means of bollards and would therefore allow access for pedestrians, bicycle users, mobile scooter users and pushchairs;
- There had been a number of 'near misses' on the lane; and
- The main objection from the Oxon Primary School regarding the problem of coaches having to turn around should not be a reason for refusing the application.

In response to comments from the Committee, the Project Manager for Capital Schemes confirmed that the emergency services had been consulted during the consultation exercise and explained that there was not alternative location for the proposed turning head. It was added that the scheme would be monitored and other measures would be introduced if necessary.

Having considered the submitted plans for the proposal and noted the comments of the speakers, the majority of Members expressed their support to the Officer's recommendation.

#### **RESOLVED:**

That the Committee supports the introduction of the proposed safety scheme as recommended.

### 33 Land to the South of Annscroft, Shrewsbury - 16/01873/OUT

The Area Planning Manager introduced the outline application for the erection of three detached dwellings to include means of access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters and it was reported that the first sentence of the reason for refusal printed in the report was incorrect and should read:

*The proposed development would provide three detached residential properties adjacent to a settlement identified by the Parish Council as part of a 'Cluster' within the 'Site Allocations and Management of Development' document (SAMDev).*

Mr Clive Roberts, applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- Longden Parish Council had a realistic view of development in the area and had put Longden forward as a 'hub' with other settlements as 'Clusters';
- The proposal was a logical extension of Annscroft and would enable young families to move into the area;
- Annscroft was not suitable for infill development;
- The applicant had consulted the Parish Council and taken into account the needs of the community; and
- The access for this site was safer than the access for the adjoining site which had been previously granted planning permission.

Having considered the submitted plans for the proposal and noted the comments of all speakers, the majority of Members expressed their support for the Officer's recommendation to refuse the application.

#### **RESOLVED:**

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

1. The proposed development would provide three detached residential properties adjacent to a settlement identified by the Parish Council as part of a 'Cluster' within the 'Site Allocations and Management of Development' document (SAMDev). However the site is not considered to be located within this settlement and is therefore located in open countryside for planning policy purposes. The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to policies CS5, MD3 & MD7a.

2. The Local Planning Authority considers that the scheme would not protect, restore, conserve and enhance the natural and built environment. This would result in the scheme being in conflict with Core Strategy Policies CS5, CS6, CS17 and SAMDev policies MD2, MD3, MD7a, MD12 & MD13. There would be significant conflict with the environmental role of sustainability. Whilst there would be limited economic and social benefits associated with the proposal, the Framework is clear at paragraph 8 that the 3 roles of sustainability should not be undertaken in isolation, because they are mutually dependent. Given that, it is considered that the proposal would conflict with the environmental role, and that the proposal would not result in sustainable development.

*Councillor Pam Moseley joined the meeting at this point.*

#### **34 11 Shorncliffe Way Shrewsbury - 16/01966/OUT**

The Technical Specialist Planning Officer introduced the outline application for the erection of a dwelling and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Having considered the submitted plans for the proposal and noted the comments of all speakers, the majority of Members expressed their support for the Officer's recommendation to refuse the application.

#### **RESOLVED:**

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

The proposal for a detached dwelling would result in an incongruous development with a design and layout that is inconsistent with surrounding properties and that would adversely affect the character and appearance of the area. Notwithstanding the outline nature of the application it is not considered that it would be possible to provide an acceptable design, layout, access and appearance and as such the proposed development is contrary to Core Strategy policy CS6, SAMDev Plan policy MD2 and the National Planning Policy Framework. The benefits of the proposal, including the provision of an additional open market dwelling within a relatively sustainable location, are acknowledged. However these would not be sufficient to outweigh the harm to the area.

### 35 **Schedule of Appeals and Appeal Decisions**

Members thanked Officers for all their hard work defending planning appeals.

#### **RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the Central area as at 28<sup>th</sup> July 2016 be noted.

### 36 **Date of the Next Meeting**

#### **RESOLVED:**

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 25<sup>th</sup> August 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....

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Committee and date

Central Planning Committee

25 August 2016

Item

**5**

Public

## Development Management Report

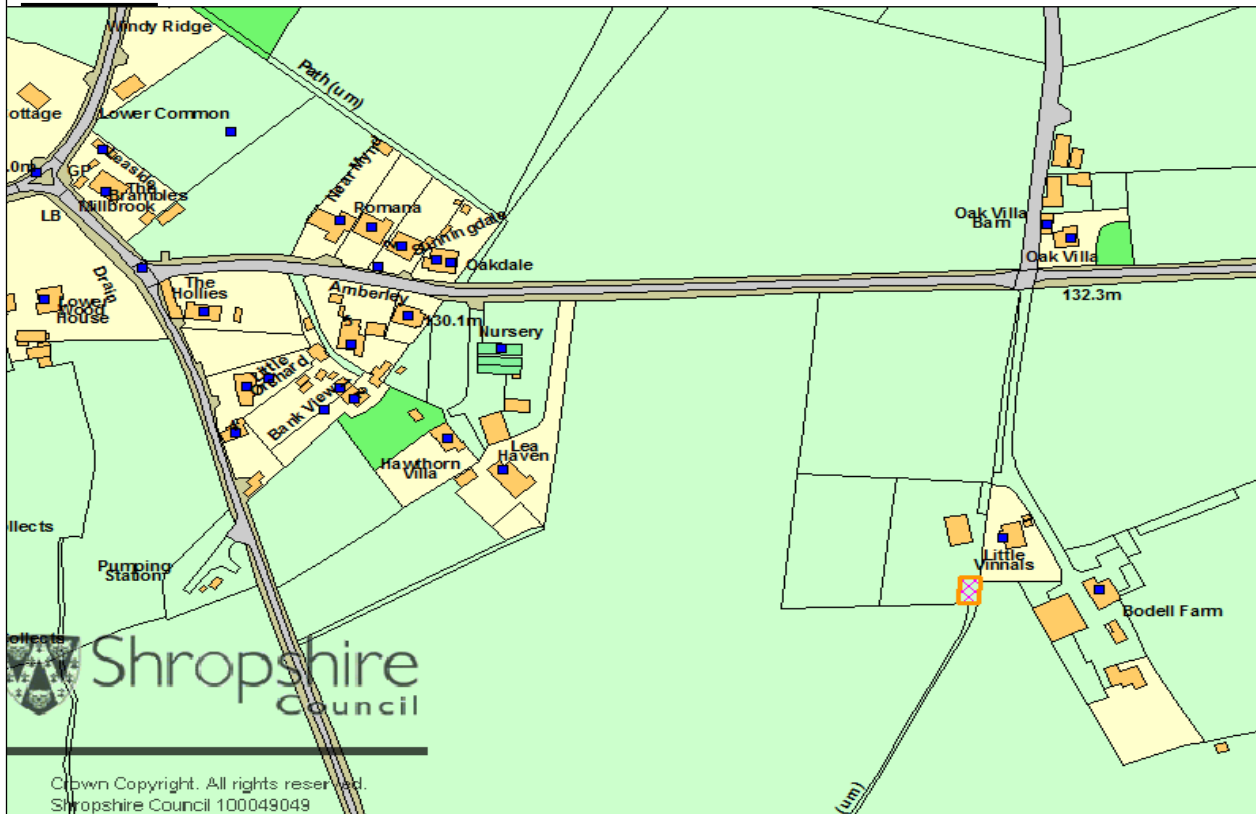
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 16/02515/FUL	<b><u>Parish:</u></b>	Longden
<b><u>Proposal:</u></b> Erection of a holiday cabin to include change of use of land (revised scheme)		
<b><u>Site Address:</u></b> Little Vinnals Bungalow Longden Shrewsbury Shropshire SY5 8HF		
<b><u>Applicant:</u></b> Mrs Ruth Gamble		
<b><u>Case Officer:</u></b> Nanette Brown	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 345781 - 305231



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**Recommendation:- Refuse subject to the conditions set out in Appendix 1.**

## Recommended Reason for refusal

1. The principle of a holiday let in an isolated open countryside location accessed via a shared private shared lane is not considered to be acceptable. This proposed development would not be related to any existing tourism business at the site, would not involve the conversion of any existing suitable building, and would be in an isolated location within open countryside away from any settlements. The scheme is considered to represent a sporadic and unsustainable form of development which is detrimental to the character and setting of the surrounding open countryside. As such it is considered that the development is contrary to policies CS5, CS6, CS13, CS16 and CS17 of the Shropshire Core Strategy and policy MD11 of the adopted SAMDev (Shropshire Council Site Allocations and Management) Development Plan as well as the National Planning Policy Framework.

**REPORT****1.0 THE PROPOSAL**

1.1 This application seeks planning permission for the erection of a holiday cabin within a field that currently forms part of a small holding. The cabin would be constructed of timber, measuring 10.5 metres x 6.2 metres, reaching a height internally of 3.048m. The agents have confirmed that the proposed cabin in physical terms meets the statutory definition of a caravan. Access to the cabin would be via the existing bungalow's access and driveway and a new footpath that would lead along the edge of the field to the chalet.

1.2 Planning permission was refused earlier this year for the erection of a holiday chalet on the site (Ref: 15/04917/FUL). The reasons for refusal were as follows:

*The principle of a holiday let in an isolated open countryside location accessed via a shared private shared lane is not considered to be acceptable. This proposed development would not be related to any existing tourism business at the site, would not involve the conversion of any existing suitable building, and would be in an isolated location within open countryside away from any settlements. The scheme is considered to represent a sporadic and unsustainable form of development which is detrimental to the character and setting of the surrounding open countryside. As such it is considered that the development is contrary to policies CS5, CS6, CS13, CS16 and CS17 of the Shropshire Core Strategy and policy MD11 of the adopted SAMDev (Shropshire Council Site Allocations and Management) Development Plan as well as the National Planning Policy Framework.*

This previous application was for a larger timber chalet. The design and scale of the new proposal has been reduced overall.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site currently consists of a detached bungalow with adjacent domestic garden and an adjacent field containing an agricultural style open sided shed that forms the existing smallholding. The site is situated towards the end of a shared private lane that also serves the adjacent property, Bodell Farm, set to the south west of Little Vinnals.
- 2.2 The site is surrounded by open countryside. The proposed holiday cabin would be sited in the southern corner of the field, accessed via a footpath that would lead from a shared parking area with the bungalow, past the western side of the bungalow and then along the eastern field boundary to the chalet. The field boundaries are currently defined by a mix of fencing and hedging.

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

- 3.1 The Parish Council has submitted a view contrary to officer's recommendation for refusal. These contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman and the Local Member agrees that the application should be determined by committee.

## **4.0 Community Representations**

### **4.1 - Consultee Comments**

#### **SC Highways – No objection in principle**

Do not approve – the application as submitted has not adequately demonstrated an appropriate parking arrangement for the development proposed. It is noted that the current application appears to be a further submission following the recent refusal of the previous application for a larger holiday chalet. The Highway Authority continues to raise no objection to the principle of providing holiday accommodation on the property served via the existing access, but the current application has failed to include the parking and turning provision in connection with the development within the red line of the application site. The earlier application included these facilities to the front of Little Vinnals.

#### **SC Affordable Housing – Comments**

If limited in its occupation, Holiday Lets are noted as an exemption in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy. Therefore no contribution will be required in this instance.

#### **Shropshire Fire Service – Comments**

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Services Fire Safety Guidance for

Commercial and Domestic Planning Applications Document – specific consideration should be given to advice given in the document relating to sprinkler systems and access for emergency fire service vehicles.

### **Longden Parish Council – Support**

After discussion it was agreed to fully support this application.

## **4.2 - Public Comments**

None received.

## **5.0 THE MAIN ISSUES**

**Principle of development**

**Design and Visual Impact**

**Residential Amenity**

**Other matters**

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Paragraph 28 of the National Planning Policy Framework states that in order to promote a strong rural economy, planning authorities should support sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met in rural service centres.
- 6.1.2 Policy CS5 of the adopted Core Strategy sets out that new development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside and green belt. It also identifies that proposed developments which maintain and enhance the countryside's vitality and character will be permitted where they relate to sustainable rural tourism, leisure and recreation proposals requiring a countryside location, in accordance with policies CS16 and CS17.
- 6.1.3 Policy CS6 of the Core Strategy requires proposals which generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced. This policy also seeks to ensure that development protects, conserves and enhances the natural environment.
- 6.1.4 Policy CS13 seeks to support the development and growth of Shropshire's key business sectors including tourism. Policy CS16 also aims to ensure deliverance of high quality, sustainable tourism. With regards to the development of visitor accommodation the policy requires high quality visitor accommodation to be

located within accessible locations that are served by a range of services and facilities in order to enhance the role of Shropshire as a tourist destination. In terms of the provision of new accommodation in rural areas the policy states that this new accommodation must be: of an appropriate scale and character for their surroundings; be close to or within settlements or an established and viable tourism enterprise where accommodation is required; and wherever possible existing buildings should be re-used.

6.1.5 Policy CS17 also seeks to protect and enhance the high quality and local character of Shropshire's natural, built and historic environment.

6.1.6 Policy MD11 of the adopted SAMDev (Shropshire Council Site Allocations and Management of Development Plan – Adopted 17th December 2015) covers the subject of tourism facilities and visitor accommodation. In addition to the requirements of policies in the core strategy including policy CS16, policy MD11 notes that chalets, static caravans and log cabins are recognised as having a greater impact on the countryside and that any proposals for new development of this type should be landscaped and designed to a high standard and have regard to their impact on the natural and historic assets of the area. MD11 also states that holiday let accommodation that does not conform to the legal definition of a caravan, and is not related to the conversion of existing appropriate rural buildings will also be resisted in the countryside.

6.1.7 In this instance the application site is located adjacent to an existing bungalow, set at the end of a private lane and is clearly within an isolated location in open countryside for the purposes of both the core strategy and SAMDev policies. The closest settlements or villages to the site are Longden, Longden Common and Stapleton that are by road at distances from the site of:

Longden (that has a shop, post office, public house and church) = 2.34km

Longden Common (public house) = 2.48km

Stapleton (church) = 1.83km

It is noted that the distance using local footpaths may be slightly less although it is still considered that the application site is not within easy or reasonable walking distances of these villages. Additional facilities such as larger shops and restaurants are situated further still from the application site in Dorrington and Shrewsbury. There are no bus routes that pass the site directly, the nearest bus routes to Shrewsbury (the nearest town) pass through either Longden or Dorrington.

6.1.8 It is considered therefore that the proposed application site cannot be considered for the purposes of policies CS16 and MD11 as being either close to or within any settlement and it is noted that the closest bus services are limited. As a result, occupiers and visitors of the chalet would be very reliant on private motor vehicles which conflicts with one of the fundamental principles of sustainable development. The application is also for a new build cabin style caravan and would not re-use any existing building as required wherever possible by policy CS16.

6.1.9 The application does state that the site is situated only 300 metres from the route of the Shropshire Way and that it is walkers using this route that are envisaged to use the proposed chalet. Whilst the Shropshire Way is well used by visitors to the area, the aims of policy CS16 and MD11 seek to provide sustainable accommodation that is located either close to settlements that provide services to visitors or are next to existing tourist facilities that require overnight accommodation. It is not considered that the positioning of visitor accommodation in open countryside away from settlements but close to the Shropshire Way would result in the provision of sustainable accommodation.

6.1.10 Policy MD11 does state that holiday let development that does not conform to the legal definition of a caravan and is not related to a conversion of an existing appropriate building will be resisted. Officers do note that the design of the cabin has been reduced from the building previously refused planning permission (Ref: 15/04917/FUL in order to meet the legal definition of a 'caravan'. Whilst this is the case, the proposed location of the siting of this caravan/cabin is still unsustainable.

## **6.2 Design and Visual Impact**

6.2.1 The proposed chalet would be constructed of materials that would aim to match and reflect the nearby agricultural building and general local vernacular with the use of timber. The building would be smaller than the existing agricultural building already sited within the field. The agent for the application puts forward that the design of the cabin offers rustic charm to its proposed countryside setting.

6.2.2 It is noted that as well as the above specified materials and design, the siting of the chalet would be set within the southern corner of the field in order to benefit from partial screening by the existing boundary hedging. Views of the chalet taken from the north, from outside of the property, would also be limited by the existing agricultural barn and adjacent bungalow. However, in spite of this it is inevitable that any new structure within an open countryside location will have some visual impact that will be detrimental to the open countryside setting and character. This site is set in an isolated position accessed by a private lane that serves just two dwellings and their associated agricultural outbuildings. The proposed chalet would be located at the southern end of the existing field and away from the existing buildings. This proposal would therefore result in an additional building to these properties which is considered would have some detrimental visual impact in this location.

## **6.3 Residential Amenity**

6.3.1 Bodell Farm is the adjacent property which shares the private lane access from the highway to the north. This property consists of a large detached house set at the southern side of a group of existing farm buildings. It is considered that due to the distances that exist between this property and the application site there would be no significant detrimental impact on the residential amenity to occupants of either site.

## **6.4 Other matters**

- 6.4.1 In terms of drainage, impact on the highway network, impact on biodiversity and ecology the likely impact of the development would be neutral. If minded to approve the scheme conditions could be included to ensure the necessary technical details were satisfactory in all regards. A plan confirming parking arrangements for the proposed has been requested from the applicants agent.
- 6.4.2 Affordable Housing - It is noted that if limited in their occupation, Holiday Lets are noted as an exemption in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy.

## **7.0 CONCLUSION**

- 7.1 Having regard to all of the above issues, it is considered that the erection of the holiday cabin would not meet the requirements of the relevant Core Strategy and SAMDev policies in that it would not be located close to or within a settlement or an established and viable tourism enterprise and it would not involve the re-use or conversion of any existing building. The scheme is therefore considered to represent a sporadic and unsustainable form of development which would be detrimental to the character and setting of the surrounding open countryside. As such it is considered that the development is contrary to policies CS5, CS6, CS13, CS16 & CS17 of the Shropshire Core Strategy and policy MD11 of the adopted SAMDev (Shropshire Council Site Allocations and Management) Development Plan as well as 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:

- ⑦ 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.
- ⑦ 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:  
NPPF

Core Strategy and Saved Policies:  
CS5, CS6, CS13, CS16 & CS17 of the Shropshire Core Strategy  
MD11 of the adopted SAMDev (Shropshire Council Site Allocations and Management)  
Development Plan



RELEVANT PLANNING HISTORY:

PREAPP/15/00389 Proposed single storey 'chalet' timber frame holiday let with timber cladding to the external walls and profiled metal deck roof for short term holiday let PREUDV 23rd September 2015

15/04917/FUL Erection of a holiday chalet to include change of use of land REFUSE 4th February 2016

## 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) planning file 16/02515/FUL
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Roger Evans
Appendices  N/A

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Committee and date

Central Planning Committee

25 August 2016

Item

6

Public

## Development Management Report

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

**Application Number:** 16/02107/OUT

**Parish:**

Shrewsbury Town Council

**Proposal:** Outline Application for the erection of 1 No detached dwelling (all matters reserved)

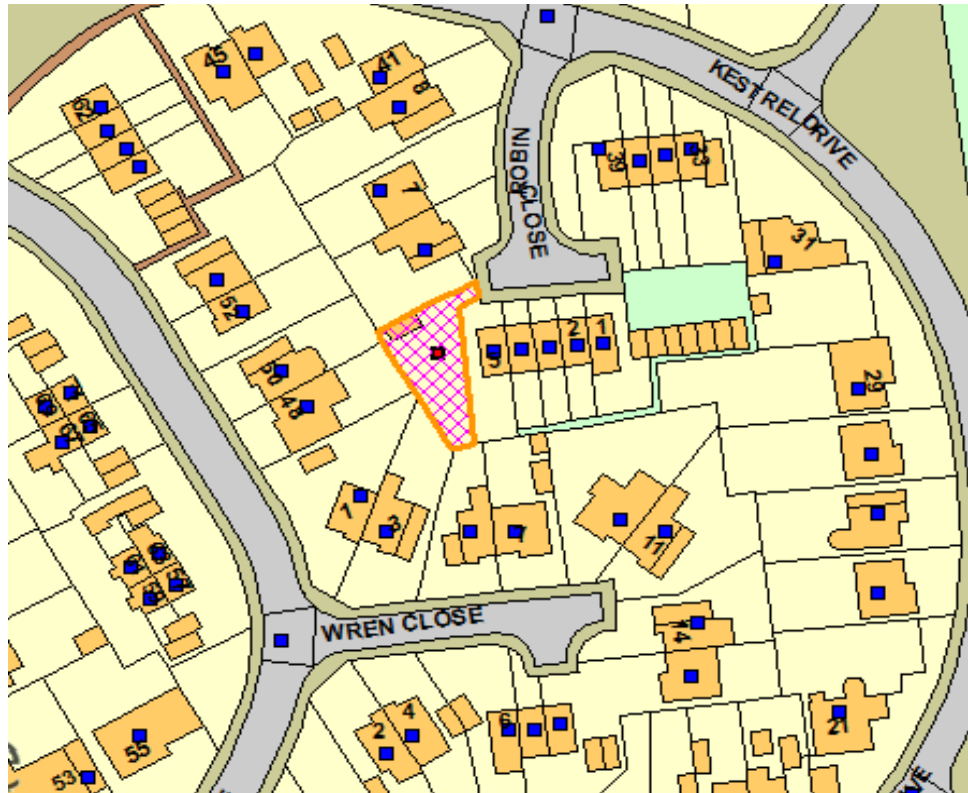
**Site Address:** Land Adjacent 5 Robin Close Shrewsbury Shropshire

**Applicant:** Mr C Elson

**Case Officer:** Mared Rees

**email:** [planningdmc@shropshire.gov.uk](mailto:planningdmc@shropshire.gov.uk)

**Grid Ref:** 351997 - 315500



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

## **1.0 THE PROPOSAL**

- 1.1 This proposal seeks outline planning permission with all matters reserved for the construction of 1 no. market dwelling.
- 1.2 Access to the site is shown as direct off Robin Close.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is located within the settlement boundary of Shrewsbury as delineated on Policy Map S16 INSET 1.
- 2.2 The application site comprises the side garden of No 5 Robin Close. The site is currently laid to grass and a detached garage lies at the northern portion site.
- 2.3 No 5 is an end of terrace property which lies to the east of the site. Pairs of semi-detached properties lie to the north, east and south.

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

- 3.1 The proposed development is considered to accord with the requirements of all of the Councils relevant adopted policies. Shrewsbury Town Council have expressed a view which is contrary to Officer recommendation and in consultation with Chair and Vice Chair of Central Planning Committee, it has been agreed that the application will be determined at Planning Committee, as set out in Part 8 of the Council Constitution.

## **4.0 COMMUNITY REPRESENTATIONS**

- 4.1 **- Consultee Comments**  
**SC Affordable Houses – No comments received.**

### **SC Highways – No objection.**

Highway Authority originally objected to the application on the basis of inadequate parking provision and highway safety impacts implications.

A revised annotated Site Plan was received on 30<sup>th</sup> June and supplementary information received on 17<sup>th</sup> June outlining the access and parking provision.

Based on the supplementary information received, Highway Authority raise no objection, stating that the principle of the access and parking layout is acceptable. Final design would be subject to a future reserved matters application.

**SC SUDS – No objection.****Shrewsbury Town Council – Object.**

*'The Town Council objects to this application as they consider it to be backland development with insufficient access. To develop this site would not be in-keeping with the area and would be inconsiderate to the neighbouring properties that would overlook the new dwelling.'*

**4.2 - Public Comments**

3 representations received objecting to the proposal.

Concerns raised include:-

Adverse impacts on overlooking and overshadowing, loss of a view, highway safety implications and disturbance as a result of noise and dust during construction works.

**5.0 THE MAIN ISSUES**

**Principle of development**  
**Character and Appearance**  
**Residential Amenity**  
**Highway Safety**  
**Drainage**  
**Affordable Housing**

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

6.1.1 The application site is located within the settlement boundary of Shrewsbury to which there is a presumption in favour of development.

6.1.2 Policy CS2 of the Core Strategy states that Shrewsbury will provide the primary focus for development for Shropshire, providing approximately 25% of its additional housing, to which the proposal would help to achieve this target.

6.1.3 Policy S16.1 of the SAMDev states that one way in which new housing development will be delivered is via windfall opportunities, to which this proposal would represent.

6.1.5 In respect of the above, the principle of development is considered to be acceptable and would accord with Policy CS2 of the Core Strategy and Policy S16.1 of the SAMDev.

**6.2 Character and Appearance**

6.2.1 The application site is considered to be of a sufficient size to accommodate the proposed dwelling and associated amenity space without appearing overly cramped or incongruous.

- 6.2.2 The proposal would not appear discordant in its siting, in the context of its location within an established residential development and being adjacent to existing properties.
- 6.2.3 A future reserved matters scheme should ensure a similar palette of materials is used as per the existing surrounding dwellings to ensure appropriate integration with the surrounding development.
- 6.2.4 The overall scale and height of the proposed dwelling should ensure it is sympathetic to the existing dwellings and should not over-dominate adjacent properties.
- 6.2.5 Landscaping would be considered as part of any reserved matters application.

### **6.3 Residential Amenity**

- 6.3.1 There are no principal windows along the facing side elevation of No 5 Robin Close.
- 6.3.2 An existing outbuilding runs along the ground floor side elevation of No 6 whilst there are no first floor principal windows in its facing side elevation.
- 6.3.3 A dense conifer hedgerow runs along the west elevation between the application site and the properties to the west and south.
- 6.3.4 In the context of the above, separation distances between the existing properties and proposed dwelling are considered would be appropriate at this stage.
- 6.3.5 It is considered that adequate private amenity space would be provided with the proposal.
- 6.3.6 Boundary treatments would be conditioned as part of any grant of consent.

### **6.4 Highway Safety**

- 6.4.1 The Highway Authority originally raised objections to the scheme on the basis that the proposed parking provision could not be achieved and the proposed access into the site was not considered to be commensurate with local road conditions.
- 6.4.2 The revised 1:200 Block Plan received on 30<sup>th</sup> June and additional comments received by the agent on 17<sup>th</sup> June sought to address the Highway Authorities concerns.
- 6.4.3 The Highway Authority were subsequently re-consulted and advised on 26<sup>th</sup> July that the revised plan demonstrated that access into the site could be achieved, as well as provision of 2 no. parking spaces.
- 6.4.4 Highway Authority raise no objection to the principle of development, having regard to the proposed access and parking provision.
- 6.4.5 The proposal would comply with Core Strategy Policy CS6 and SAMDev Policy MD2.

**6.6 Drainage**

- 6.6.1 SUDS raises no objection to the scheme subject to pre-commencement conditions to secure surface water drainage and disposal schemes.

**6.7 Affordable Housing**

- 6.7.1 Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, national policy prevails and an affordable housing contribution would not be sought in this instance.

**7.0 CONCLUSION**

- 7.1.1 The principle of development for a dwelling on this site is considered to be acceptable, subject to relevant conditions.
- 7.1.2 Further details in regard to design, layout, scale and appearance would be secured at reserved matters stage.

**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 1970.

## **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:**  
**NPPF**

**Core Strategy and Saved Policies:**  
**CS2, CS6**

**SAMDev:**  
**MD2, S16**

### **RELEVANT PLANNING HISTORY:**

N/A

## **11. Additional Information**



[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Malcolm Price
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Appendices APPENDIX 1 - Conditions
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**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

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

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

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

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

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

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

4. The approved plans to which this permission relates are:-

1:1250 Site Location Plan (received 13<sup>th</sup> May 2016)

1:200 Block Plan (received 01<sup>st</sup> August)

Reason: For the avoidance of doubt and to specify the plans to which this permission relates.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

5. Prior to commencement of development, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed prior to first occupation of the dwelling hereby approved. The boundary treatment shall be carried out in accordance with the approved details and permanently retained unless otherwise first approved in writing by the Local Planning Authority.

Reason: To ensure adequate and appropriate treatment to all boundaries in the interests of the visual and residential amenities of the locality in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.

6. Prior to commencement of development, detailed proposals for disposal of surface water shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved scheme.

Reason:- In the interests of managing surface water flood risk impacts both on and off site, potentially resulting from the development proposals in accordance with Core Strategy Policy CS18 and SAMDev Policy MD2.

#### **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**

##### **Informatives**

1. The Local Planning Authority (LPA) in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. The proposal as submitted would result in harm to highway safety and is considered would not comply with the provisions of the NPPF.
2. As part of the SuDS scheme, the applicant should consider employing measures such as the following in order to ensure the development is undertaken in a sustainable manner:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new access, driveway, parking/paved area

Attenuation

Greywater recycling system

Green roofs

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Committee and date

Central Planning Committee

25 August 2016

Item

7

Public

## Development Management Report

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 16/02931/FUL	<b><u>Parish:</u></b>	Uffington
<b><u>Proposal:</u></b> Erection of detached dwelling with associated hard and soft landscaping and creation of new access		
<b><u>Site Address:</u></b> Land Adj Manor Field Uffington Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Mr & Mrs Miller		
<b><u>Case Officer:</u></b> Jane Raymond		<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 352924 - 313557



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

**REPORT**

## 1.0 THE PROPOSAL

- 1.1 This application relates to the erection of a detached dwelling and the formation of new access.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is within the village of Uffington located off Church Road approximately 1 mile from Harlescott and less than 3 miles from the centre of Shrewsbury. The site is currently an open agricultural field situated between a newly built large detached house to the North (Manor Field) and two pairs of semi detached dwellings to the South (3 and 4 Top Cottages). Opposite the site is a pair of semi-detached houses.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application does not comply with the scheme of delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the Area Planning Manager in consultation with the Committee Chairman agree that the application should be determined by committee.

## 4.0 Community Representations

### 4.1 - Consultee Comments

- 4.1.1 **SC Ecology:** An ecological survey was carried out on this site in January 2016 by Arbor Vitae.

Habitats on the site consist of an improved grassland field and a recently-planted beech hedgerow which forms the eastern boundary.

No evidence of any protected or priority species was observed on, or in close proximity to, the site.

Any hedgerow removal should take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check should be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animals which become trapped have a means of escape.

To enhance the ecological value of the site, it is recommended that the landscaping scheme includes some hedgerow, tree and shrub planting using native species of local provenance.

It is recommended that bird boxes are erected on the new building to enhance the nesting opportunities for birds in the local area.

4.1.2 **SC Drainage:** Suggests an informative regarding designing a sustainable drainage scheme for the disposal of surface water.

4.1.3 **SC Highways:**

Recommendation

No objection – subject to the development being constructed in accordance with the approved details and the suggested conditions and informatives.

Observations/Comments:

The site is located at the southern end of the village, on the western side of the Class III road within the local speed limit of 30 mph with a footway along the site road frontage that provides pedestrian connectivity with the village. The current application site for a single dwelling previously formed part of a larger outline approval which would have had three dwellings erected in the same area. The Highway Authority raised no objection to the principle of that previous development with its proposal of a series of separate accesses serving each of the dwellings. The highway conditions have not fundamentally changed in the intervening period of time and it is considered the erection of a single dwelling served via two accesses is unlikely to result in adverse highway implications on the adjoining Class III Road.

4.2 **- Public Comments**

4.2.1 Uffington PC: Strongly object to this application for the following reasons:

- Paragraph 17 of the NPPF encourages effective use of land.
- After careful consideration and consultation the Parish Council became a cluster to bring forward much needed housing. The site in question in the SAMDev (Plan attached) is for 5 dwellings, one having already been built. Therefore if planning is to be genuinely led to empower local people and their decision making process there should be four homes on this site and not one. The provision of four homes would promote and support the community and cultural facilities in the village by bringing in four new families not just one.
- The provision of four homes (as stated in adopted Core Strategy S16) instead of one would enhance the vitality of the community, this is a rural village and provision

of four homes not one would promote opportunities for local families to live near their place of work.

- This is a very large home and does not fit into the street scene. It does not reflect or represent the rural cottages adjacent or opposite the site.

- This large home does not address the connection between people and place. The development would not integrate within the natural environment of the village.

- The development does not fit in with the Villages aspirations in terms of appearance and place.

- The adopted policy (CS16) clearly states the provision of five homes on this site. When there is a need for more housing why is Shropshire Council even considering a site adopted for four homes only being occupied by one single very large dwelling?

- The Parish Council took considerable time and effort over the SAMDEV period to find sites for new homes that satisfied the aspirations of the local community. The development flies in the very face of their wishes.

#### 4.2.2 Five letters of objection summarised as follows:

☐ It is important that future developments, including the current proposal, have more appropriate boundary structures.

☐ The size and visual impact of the dwelling would be out of scale in comparison to surrounding properties, would be overbearing and would not be in keeping with and would detract from the current character of the village.

☐ The proposal will obstruct the view from existing properties.

☐ The proposed ineffective use of land is unjustified and would, unnecessarily, mean additional plots having to be sought to meet previously agreed housing numbers.

☐ The social and community development of the village would be much better advanced by the provision of four more affordable homes than the current proposed single dwelling.

☐ The proposed dwelling would be contrary to Samdev and the previous efforts by local residents and the Parish Council to find a satisfactory solution to the development of Uffington should not be ignored.

☐ Concern about the two entrances onto what is already a very busy road.



## 5.0 THE MAIN ISSUES

Principle of development  
Scale, Design and Visual Impact  
Residential Amenity  
Landscaping  
Highways  
Affordable Housing

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 The site as amended forms part of the allocated site (UFF006/10) for Uffington within SAMDev settlement policy S16.2(xiii) which states the following:

*‘Uffington is a Community Cluster Settlement with a housing guideline of approximately 5 additional dwellings over the period to 2026. This will be delivered through the development of the site allocated for housing, leaving scope for limited infill development/conversions of buildings which may be acceptable on suitable sites’.*

The development guideline for the site allocation is for the provision of ‘up to five dwellings’ and that ‘development should front the road’.

- 6.1.2 Outline planning permission (13/00334/OUT) has already been granted for four dwellings on a slightly larger site area than the site allocation. A separate full application (13/03503/FUL) for a single dwelling (Manor Field) has subsequently been approved and constructed on one of the four plots approved at the outline stage. The remaining three plots therefore could have been the subject of a Reserved matters application for three houses but the LPA cannot require that a Reserved matters application is made.
- 6.1.3 The current landowner has made an application for full planning permission and it is considered that the development of the remaining part of this allocated site for a single dwelling meets the development guideline of the both the site allocation and the settlement policy S16.2(xiii).
- 6.1.4 It is acknowledged that the provision of three or four smaller homes on this part of the allocated site would contribute to the housing need of approximately five dwellings identified for Uffington within the SAMDev settlement policy. However the settlement policy allows for approximately five dwellings to be delivered on this site and/or on other suitable sites within the village up to 2026. Full planning permission has already been approved for two dwellings (Manor Field already

constructed and land adjacent to Vine Cottage for a single dwelling (14/02116/FUL)). If this application is approved this leaves scope for two additional homes within the village to come forward in the next ten years.

## 6.2 Layout, Scale, Design and Visual Impact

- 6.2.1 Uffington is a linear village that has developed with a variety of housing styles and sizes which predominantly face Church Road that runs through the centre of the village. The development guideline for this site allocation is that *'development should front the road'*. The most recent developments are the large executive type homes that have been built to the North of the site including the recently built 'Manor Field' which is adjacent to 'Manor Court'. 'Manor Field' was considered to be acceptable in scale and size due to its location adjacent to 'Manor Court' which is a substantial house situated within a large plot. Manor Field is a more modern design compared to the more traditional and pastiche design of the adjacent housing, but given the variety of housing in Uffington that has evolved over the years it was not considered that this more modern design would appear out of place or would have an adverse impact on the character and appearance of the locality.
- 6.2.2 The properties adjacent the site to the South are a pair of semi-detached houses (3 and 4 Top Cottages) and immediately opposite the site is another pair of semi-detached houses (1 and 2 Top Cottages). No.3 (the house immediately adjacent the site) has been extended and doubled in size by a large two storey side and rear extension. The two storey part of the proposed dwelling although large is similar in scale and bulk to the adjacent pair of semi-detached properties. The dwelling has been designed to reduce its scale and bulk and visual impact by the first floor of accommodation being partly in the roof, by including front facing gables and dormer windows and variations in heights of the roof which break up the frontage rather than the proposal appearing as one large block. Accommodation is also proposed underground at basement level which will not be visible apart from the protective fencing.
- 6.2.3 It is considered that the design and scale of the proposal is acceptable in the context of the large detached houses to the North and the scale and bulk of the extended and combined pair of semi-detached houses to the South. There are a variety of building materials within Uffington including predominantly brick but with some rendered properties and some black and white timber framed. The newly constructed house adjacent is constructed of brick but has partial horizontal timber cladding to the upper floors. This proposal includes stone at ground floor with timber boarding at first floor beneath a slate tiled roof. The timber boarding of the upper floors will be in keeping with the adjacent house and whilst the proposed Haughmond stone for the ground floor is a local stone it is not in use within Uffington and it may be more appropriate for the dwelling to be constructed of brick. A condition can be imposed to require the submission of materials for approval.
- 6.2.4 The size of the plot has been reduced and the red line amended to be wholly within the remaining part of the SAMDev allocation. The footprint of the main house

excluding the garages to the side is broadly the same as the adjacent pair of semi-detached houses and although the plot size is generous it is considered appropriate given the size of the dwelling. It is considered that the plot size and siting of the dwelling is in keeping with the density of surrounding properties and the ribbon development that is characteristic of Uffington and is appropriate for this rural setting.

### **6.3 Residential Amenity**

- 6.3.1 Nearby residents have raised concern that the proposal will affect their view. Although it is understandable that the view of open fields and distant hills may be preferred to a view of a house and garden there is no right to a view and it is considered that the proposed dwelling would not appear overbearing or obtrusive to the occupiers of properties opposite. The proposal originally included a small tower which would have created the feeling of being overlooked and therefore had the potential to impact on privacy. This aspect of the proposal has been omitted from the design. Due to the distance between the proposal and the houses on the opposite side of the road it is not considered that the remaining first floor windows in the front elevation would result in overlooking or a loss of privacy for the occupiers of 1 and 2 Top Cottages opposite. The windows in the roof of the garage do not serve usable attic space but are incorporated into the design as an architectural feature and to give light to the garage space below. There are two small windows in the South facing side elevation but these serve bathrooms and can be obscure glazed.

### **6.4 Landscaping**

- 6.4.1 The application indicates that the proposal will include soft and hard landscaping but a detailed landscaping proposal has not been submitted. One resident has commented that the two metre high boundary walls on more recent developments in Uffington have adversely affected the appearance of the village and that this development should have more appropriate boundary treatments. The site layout plan does indicate a boundary fence to the front and also a timber fence to 'guard' the excavated land that is required to provide a window to the South elevation of the proposed basement level swimming pool. It is considered that a boundary fence and native species hedgerow or a low brick or stone wall would be appropriate boundary treatment and this in addition to the landscaping of the site will be considered as part of a discharge of conditions application if this planning application is approved.

### **6.5 Highways**

- 6.5.1 Concern has been raised by residents regarding the proposed two entrances onto what they consider to be an already very busy road. However three additional individual accesses were approved at the outline stage and Highways have no objection to this proposal for two. Adequate garaging, parking and turning areas will be provided to allow vehicles to enter and leave the site in a forward gear.

There is good visibility in both directions, the speed limit is 30mph and it is not considered that the proposal would result in a significant increase in traffic or the speed of traffic on this road.

## **6.6 Affordable Housing**

- 6.6.1 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28th November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas. Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31st July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.
- 6.6.2 The Government challenged this decision through the Court of Appeal which over turned Mr Holgate's decision on the 11th May 2016. Consequently the WMS still applies and the National Planning Policy Guidance was amended on the 19th May 2016. In addition to this the Housing & Planning Act gained Royal Assent on the 12th May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.
- 6.6.3 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not require an Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000sqm floor area in the majority of cases.
- 6.6.4 This proposed development consists of the provision of a single dwelling and will create less than 1,000sqm floor space. Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre date the Court of Appeal decision and subsequent changes to the National Planning Policy Guidance, meaning that on balance and at this moment in time, National Policy Prevails.
- 6.6.5 The application is therefore recommended for approval without the need for a Section 106 agreement to secure an affordable housing contribution.

## **7.0 CONCLUSION**

- 7.1 Residential development of the remaining part of this allocated site is acceptable in principle and the provision of a single dwelling that fronts the road is in accordance

with the site allocation and settlement policy. It is considered that the siting, scale, design and appearance is acceptable and would have no adverse impact on the character and appearance of the locality or the residential amenity of nearby properties. A safe means of access and adequate parking will be provided and it is considered that the proposal would have no highway safety implications. The proposal therefore accords with Shropshire Council Local Plan Policies CS4, CS5, CS6 and S16.2(xiii).

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ⑦ 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.
- ⑦ 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: NPPF

Local Plan Policies: CS4, CS5, CS6 and S16.2(xiii)

### RELEVANT PLANNING HISTORY:

09/02280/FUL Erection of 6, two bedroomed and 4, three bedroomed affordable dwellings and creation of new vehicular and pedestrian accesses (amended description) GRANT 23rd November 2009

13/00334/OUT Outline planning application for the provision of four open market dwellings to include access and layout GRANT 30th August 2013

13/03503/FUL Erection of one open market dwelling and associated access in connection with outline planning application reference 13/00334/OUT GRANT 22nd January 2014

## 11. Additional Information

List of Background Papers: 16/02931/FUL
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr John Overall
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

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

3. Visibility splays shall be provided at each of the new access points at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43.0 metres in both directions from the accesses along the highway. All growths and structures in front of these lines shall be lowered to and thereafter maintained at carriageway level and shall be fully implemented prior to the dwelling being occupied.

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

4. The accesses, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

5. The access apron shall be constructed in accordance with the Council's specification for a residential access and shall be fully implemented prior to the dwelling being occupied.

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

6. Prior to the above ground works commencing details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

7. Prior to the first occupation of the buildings hereby permitted, 2 woodcrete artificial nesting boxes suitable for house sparrows, house martins, or swifts shall be erected on the site.

Reason: To ensure the provision of nesting opportunities for birds in accordance with section 11 of the National Planning Policy Framework.

8. Prior to the above ground works commencing full details of both hard and soft landscape works including boundary treatments shall be submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved details prior to the dwelling being occupied. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

9. The first floor windows in the South facing elevation shall be permanently formed with a top opening light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed above ground floor level in either side elevation.

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



### Development Management Report

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

<b>LPA reference</b>	15/04807/PMBPA
<b>Appeal against</b>	Refused Prior Approval of Permitted Development
<b>Appellant</b>	Mr And Mrs J Record
<b>Proposal</b>	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
<b>Location</b>	Barn South West Of Heath Farm Yockleton Road Cardeston Ford
<b>Date of application</b>	06.11.2015
<b>Officer recommendation</b>	Planning Permission Required
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	07.01.2016
<b>Date of appeal</b>	01.03.2016
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	06.07.2016
<b>Date of appeal decision</b>	05.08.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED – COSTS REFUSED</b>
<b>Details</b>	

<b>LPA reference</b>	15/03599/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	J Warner & Son
<b>Proposal</b>	Outline application for residential development including access
<b>Location</b>	Land To The West Of Rodefern Lane Great Ness Montford Bridge Shropshire
<b>Date of application</b>	19.08.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	11.11.2015
<b>Date of appeal</b>	17.02.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	21.06.2016
<b>Date of appeal decision</b>	18.07.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	16/00942/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Ms A Clegg
<b>Proposal</b>	Erection of detached double garage to include insertion of dormer windows with first floor office/store
<b>Location</b>	162 Ellesmere Road Shrewsbury
<b>Date of application</b>	02.03.2016
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	29.04.2016
<b>Date of appeal</b>	30.06.2016
<b>Appeal method</b>	Householder Fast Track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	15/01684/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	LMF Ltd
<b>Proposal</b>	Outline application for the erection of 3 no. detached dwellings to include means of access
<b>Location</b>	Proposed Residential Development Land To The South Of Annscroft Shrewsbury
<b>Date of application</b>	21.04.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	23.09.2015
<b>Date of appeal</b>	17.03.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	22.06.2016
<b>Date of appeal decision</b>	12.08.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>
<b>Details</b>	

<b>LPA reference</b>	15/03493/PMBPA
<b>Appeal against</b>	Refused Prior Approval of Permitted Development
<b>Appellant</b>	Mr Phil Evans
<b>Proposal</b>	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
<b>Location</b>	Land Between Longnor And Little Ryton Ryton Shrewsbury
<b>Date of application</b>	11.08.2015
<b>Officer recommendation</b>	Prior Approval Required & Refused
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	26.10.2015
<b>Date of appeal</b>	29.03.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	05.07.2016
<b>Date of appeal decision</b>	10.08.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	15/03415/PMBPA
<b>Appeal against</b>	Refused Prior Approval of Permitted Development
<b>Appellant</b>	Mr Paul Jarrett
<b>Proposal</b>	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
<b>Location</b>	Barn South West Of Kenley Hall Kenley Shrewsbury
<b>Date of application</b>	11.08.2015
<b>Officer recommendation</b>	Prior Approval Required & Refused
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	27.10.2015
<b>Date of appeal</b>	04.04.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	11.07.2016
<b>Date of appeal decision</b>	10.08.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

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## Appeal Decision

Hearing held on 6 July 2016

Site visit made on 6 July 2016

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 05 August 2016**

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**Appeal Ref: APP/L3245/W/16/3145566**

**Barn to the South of Heath Farm, Yockleton Road, Cardeston, Shrewsbury Shropshire SY5 9NN**

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
  - The appeal is made by Mr Julian Record of Record Associates against the decision of Shropshire Council.
  - The application Ref 15/04807/PMBPA, dated 2 January 2015, was refused by notice dated 7 January 2016.
  - The development proposed is change of use of an agricultural building to a C3 dwelling house.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Julian Record of Record Associates against Shropshire Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The application was made under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ('the Order') (hereafter referred to as 'Class Q'). This permits development consisting of: (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.
4. It was confirmed at the hearing that approval is being sought under Class Q(a) and Class Q(b). The Council dealt with the application on this understanding and I shall determine the appeal on the same basis.
5. Permission under Class Q is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval would be required as to the matters set out in Paragraph Q.2(1)<sup>1</sup>.

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<sup>1</sup> All paragraph references hereafter relate to paragraphs within Schedule 2, Part 3 of the Order.

6. The submitted plans identify an area of proposed curtilage. This would be immediately beside the building and no larger than the land area occupied by it. It would therefore meet the definition of 'curtilage' set out in Paragraph X.
7. Paragraph W(3) states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on these grounds that the Council refused the application. However, the reason for refusal makes clear that, had permitted development rights applied, the design or external appearance of the building would have been deemed unacceptable.

### **Main Issues**

8. The main issues in this case are:
  - a) whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended; and
  - b) if the proposal does constitute permitted development, whether the design or external appearance of the building would be acceptable.

### **Reasons**

9. The deemed permission granted by Class Q is subject to a number of limitations and restrictions which are set out in Paragraph Q.1. The proposal must meet all of these requirements in order to qualify as permitted development.
10. The Council's primary concern is in relation to compliance with Paragraph Q.1(a). This states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20<sup>th</sup> March 2013 ('the relevant date'), or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
11. Paragraph X defines 'agricultural building' to mean a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business. The term 'agricultural use' refers to such uses. It is clear therefore that agricultural use has a more restrictive meaning in the context of an application under Class Q.
12. The appeal building was originally constructed whilst Heath Farm was operated as a rare breed pig rearing enterprise known as 'Pigs in Clover'. The Council accepted at the hearing that this was a business and that the building had been used in connection with the business. However, the pig enterprise ceased and the appellant purchased the barn as part of a larger land holding, which included the farmhouse, in April 2012.
13. It is evident from the appellant's own submissions that the barn was in use on the relevant date for the storage of various items of agricultural related equipment. There is, however, no substantive evidence to demonstrate that this was being used in connection with a trade or business. Indeed, from what I heard the equipment was being stored for purposes relating to the general maintenance and improvement of the land.

14. The refusal reason focuses upon whether the building was used solely for agricultural purposes as part of an established agricultural unit. The latter is defined within Paragraph X as 'agricultural land which is occupied as a unit for the purposes of agriculture'. Having regard to this definition, I accept that the appellant's landholding could reasonably be described as an agricultural unit. However, this does not address what I consider to be the central and most critical matter; whether the agricultural use on the relevant date was for the purposes of a trade or business.
15. There is no firm evidence to demonstrate that this was the case and therefore I must conclude that the proposal would not meet the restrictions and limitations set out in Paragraph Q.1(a). As such, it would not constitute permitted development under Class Q and there is no requirement for me to consider the matters for which prior approval is required under Paragraph Q.2(1).

### **Other Matters**

16. I am told that since purchasing the site the appellant has acquired a small flock of sheep with the intention of selling surplus lambs. However, this activity has made limited use of the building and was not in existence on the relevant date. Whilst I note that a local farmer was using the appellant's paddocks for sheep grazing and the cultivation of hay at that point in time, the parties are agreed that this did not make use of the building.
17. Although not referenced in the Council's decision, the scheme would also conflict with Paragraph Q.1(g) by reason that the proposed roof overhang would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. I acknowledge the appellant's suggestion at the hearing that additional eaves depth would be a positive design feature and an ecological benefit. However, this does not alter the fact that the scheme would fail to comply with the limitations and restrictions of the Order.
18. It was contended that the proposal would conflict with Article 3(4) of the Order because the development would be contrary to a condition on a previous planning permission for a pair of general storage buildings on the site. However, the appeal building bears no resemblance to that shown on the approved plans, being substantially taller and clad in different materials. I also note that there was no application to discharge any of the conditions on the permission. This leads me to the view that the building on site is not that which was previously permitted; hence the proposal is unaffected by Article 3(4).
19. The Council argued in the alternative that the proposal would conflict with Article 3(5) of the Order by reason of the building operations involved in the construction of the building being unlawful. There is nothing to suggest that the building has the benefit of planning permission. However, it is common ground that it was substantially complete by the time the appellant purchased Heath Farm in April 2012. Furthermore, the Council confirmed at the hearing that no enforcement notice is in force. On the basis of this evidence, the building would be lawful under Section 191(2) of The Town and Country Planning Act 1990, as amended. Accordingly, I find no conflict with Article 3(5).
20. Part of the Council's case is that the building was used for the storage of domestic items. However, the case officer's observations post-date the relevant date and the other evidence in support of this argument is weak.

Whilst there are some indications that domestic items may have been found in and around the barn since the appellant took ownership, I am not convinced that this has amounted to a material change of use.

21. Notwithstanding the lack of a relevant refusal reason, I have been invited to consider whether the building is structurally suitable for conversion. In the absence of a structural report I am unable to reach a finding on this issue. However, the appeal has failed for other reasons and my decision does not turn on this matter.
22. I have been referred to various appeal decisions and a number of decisions made by the local planning authority. Although I have been given the salient points, full details of those cases are not provided and I am unable to establish whether there are any direct parallels. The cases are not determinative in any event and my decision must be made on the facts of this particular case.

### **Conclusion**

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

*Robert Parker*

INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT:**

Julian Record                      Appellant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Frank Whitley MRTPI              Technical Specialist Planning Officer, Shropshire Council

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Statement of Common Ground
2. Late representation from the occupier of Oaklands, Cardeston

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## Costs Decision

Hearing held on 6 July 2016

Site visit made on 6 July 2016

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 05 August 2016**

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**Costs application in relation to Appeal Ref: APP/L3245/W/16/3145566  
Barn to the South of Heath Farm, Yockleton Road, Cardeston, Shrewsbury  
Shropshire SY5 9NN**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Julian Record of Record Associates for a full award of costs against Shropshire Council.
  - The hearing was in connection with an appeal against the refusal of prior approval for change of use of an agricultural building to a C3 dwelling house.
- 

### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council's concerns centred upon the suitability of the building for agriculture and the possibility that it may have been in domestic use on 20<sup>th</sup> March 2013. Whilst I was not persuaded by the evidence in support of these arguments, I nevertheless accept that the local planning authority had reasonable grounds for doubt regarding the use of the building. The Order places the onus upon the developer to provide sufficient information to show that the proposal complies with the relevant limitations and restrictions. In light of this, I am satisfied that the Council's behaviour in refusing the application was not unreasonable.
4. In the event, the appeal did not succeed because of the failure to demonstrate that the building was in use for the purposes of a trade or business on the relevant date. Although the appellant's evidence was prepared in response to the refusal reason, which was framed differently, it was essential to establish the facts of the case (particularly in terms of chronology of events). Accordingly, I consider that the evidence was a necessary part of the appeal process.
5. Local planning authorities are advised to approach decision-taking in a positive way and early engagement is actively encouraged. There is no firm evidence of lack of co-operation in this case and I note that there was communication between the parties at the pre-application stage and during the course of the

application. I acknowledge that the appellant feels aggrieved that this did not alter the outcome. However, I can find no grounds for concluding that the Council behaved unreasonably in its handling of the case.

6. The invitation for me to consider whether the building is structurally suitable for conversion was effectively introducing a new reason for refusal. This was unreasonable behaviour as it did not allow the appellant sufficient opportunity to commission a structural report in advance of the hearing. However, my decision did not turn on this matter and therefore the appellant has not been prejudiced. Moreover, it has not resulted in unnecessary or wasted expense.
7. As regards the other matters raised, the decision of the case officer to visit the site without an appointment was not unreasonable behaviour. Whilst I note the appellant's concern regarding consistency of decision making, consideration of design and external appearance requires the exercise of judgement and each proposal must be considered on its own merits.
8. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. An award of costs is therefore not justified.

*Robert Parker*

INSPECTOR

## Appeal Decision

Site visit made on 21 June 2016

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

**Decision date: 18 July 2016**

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**Appeal Ref: APP/L3245/W/16/3144776**

**Land adjacent to The Poplars, Great Ness, Nesscliffe, Shrewsbury SY4 2LD**

- 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 J Warner and Son against the decision of Shropshire Council.
  - The application Ref 15/03599/OUT, dated 18 August 2015, was refused by notice dated 11 November 2015.
  - The development proposed is residential development including access.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The application was submitted in outline with the matter of access to be determined. Matters of appearance, scale, layout and landscaping are reserved for future consideration, though an indicative plan (PGN/PP/02a) showing 1 dwelling has been provided. I have determined the appeal on that basis.

### Main Issue

3. The main issue is whether the proposed development would provide a suitable site for housing, having regard to the principles of sustainable development, the development plan and the National Planning Policy Framework (the Framework).

### Reasons

#### *Planning Policy Context*

4. The appeal site is located within the open countryside outside of any defined settlement boundaries. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) seeks to control new development in the open countryside. It identifies dwellings necessary for forestry, agricultural or other workers, or dwellings which would meet an identified local housing need as exceptions to this control. The proposal would result in the erection of an open market dwelling on the site. It would, therefore, conflict with Policy CS5.
5. Policy CS4 of the CS indicates that development in Community Clusters, as identified in the recently adopted Shropshire Site Allocations and Management of Development Plan 2015 (SAMDev), will be supported where it is of a scale that is appropriate to the settlement as set out in the relevant SAMDev policy.

6. Policy S16.2(ix) of the SAMDev identifies Great Ness as part of such a Community Cluster where development by limited infilling may be acceptable on suitable sites within the village. The policy sets out a housing target of 10-15 dwellings to be delivered up until 2026 across the Community Cluster.
7. The appeal site is located close to Great Ness but distinctly separate from the core of the village. It is common ground between the main parties that the proposal would not constitute limited infilling. On the evidence before me, I agree that the appeal site can not reasonably be considered as infill. The Council indicates that planning permission has been granted for 9 dwellings within Great Ness, with 5 having already been built out. It is also noted that planning permissions have also been granted in other villages within the Community Cluster. The proposal would, therefore, result in a material, if somewhat modest, increase in the number of dwellings within the Community Cluster beyond the target set out in Policy S16.2(ix). As a result, the proposal would conflict with Policy CS4 of the CS and Policy S16.2(ix) of the SAMDev.
8. The appellant submits that the Council is unable to demonstrate a 5 year supply of housing land. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply. The appellant argues that the relevant policies for the supply of housing are not up-to-date and therefore the presumption in favour of sustainable development set out in Paragraph 14 of the Framework applies. The appellant has referred to a recent appeal decision<sup>1</sup> at Teal Drive, Ellesmere where the Inspector found that the Council could not demonstrate a 5 year housing supply. The Council argues on the contrary, pointing to a housing supply statement dated November 2015 which demonstrates a 5.53 year supply. It has also drawn attention to another recent appeal decision<sup>2</sup> where an Inspector concluded that the Council can demonstrate a 5 year supply.
9. It is clear that situation regarding deliverable housing land supply is complex and the topic of considerable debate and, whilst I have had regard to the Teal Drive decision, I have no substantive evidence from the appellant in this case to dispute the Council's stance. Consequently, on the limited evidence before me, I cannot conclude in this instance that the Council is unable to demonstrate a 5 year supply of housing land.
10. Nevertheless, SAMDev Policy MD3 states that where a development would result in an increase beyond the targets for delivery set out in Policy S16.2(ix), as is the case here, decisions will have regard to the benefits arising from the development, the impacts of the development and the presumption in favour of sustainable development. Furthermore, Paragraph 49 of the Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development.
11. Paragraph 14 of the Framework confirms the presumption in favour of sustainable development as permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. A balancing exercise of whether the adverse impacts would outweigh the benefits of the proposal is therefore required.

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<sup>1</sup> APP/L3245/W/15/3067596

<sup>2</sup> APP/L3245/W/15/3033490

### *Sustainable Development*

12. Paragraph 7 of the Framework indicates that there are three dimensions to sustainable development - environmental, economic and social. Paragraph 8 confirms that these are mutually dependent.
13. The appeal site forms an integral part of the substantial expanse of undulating countryside that envelops Great Ness. The site plays a key role in supporting the rural character which is evident upon approach to the village. Although somewhat contained by hedgerows, the appeal site nevertheless makes a significant, positive contribution to the open and, despite the presence of agricultural buildings, largely unfettered character of the countryside.
14. Whilst I note that scale and appearance are reserved matters, the indicative scheme nevertheless points towards a two-storey dwelling with a significant area of driveway. Although I acknowledge a small, existing building on the site would be removed, in my view the proposal would result in a significant increase of built form within this part of the open countryside. Moreover, I consider that the existing level of vegetation around the site would not significantly screen views of the proposal and in any event, utilising additional landscaping to screen the dwelling would only serve to reduce the open nature of the site.
15. The proposed development would extend the village of Great Ness so as to be harmful to its established form and character as a settlement. Furthermore, the proposal would result in a significant encroachment of urban form into open countryside. As a result, I consider the proposal would appear as an isolated and incongruous form of development. I conclude at this stage, therefore, that the proposal would have a significant, harmful effect on the character and appearance of the open countryside.
16. My attention has been drawn to a recent grant of planning permission for a single dwelling on land adjacent to Oakfield<sup>3</sup>. Whilst this sits a short distance from the appeal site, the land lies between an existing property and the village, resulting in less of an encroachment into the open countryside than the appeal proposal. In any event, I have determined this appeal on its individual merits. Accordingly, I attached limited weight to the Oakfield case.
17. The appeal site lies adjacent to the boundary of the Great Ness Conservation Area and close to the Grade II Listed 'The Poplars'. The appellant's Design and Access Statement describes Great Ness as an attractive settlement of architectural and historic character. Its significance derives from its historical value and the range of building styles and materials within the village. The setting of the conservation area is dominated by open countryside. I also consider the Grade II Listed Building is an attractive, red brick property which exhibits considerable aesthetic and historical value. Its location close to the open fields around the village contributes to its significance as a heritage asset.
18. The Council has raised no concerns with the effect of the proposal on the setting of the conservation area or the setting of the listed building. On the evidence before me, I have no reason to disagree. Nevertheless, the setting of both heritage assets would undoubtedly be affected to some degree and careful design would be needed to ensure that those effects would not be harmful.

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<sup>3</sup> Ref: 14/05711/FUL

19. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a statutory duty upon decision makers to safeguard the significance of heritage assets for future generations. Statute allows for change in the setting of heritage assets, where change does not harm the significance of the listed building or conservation area. In this instance, I find that the proposal would preserve the setting of the Great Ness Conservation Area and the Grade II Listed 'The Poplars'. This would, nevertheless, be a neutral factor, rather than a benefit of the proposal.
20. The proposal would be liable for a payment through the Community Infrastructure Levy (CIL), however, the CIL is designed to deliver infrastructure necessary to support additional development. I consider, therefore, that a CIL payment in respect of this proposal would also be a neutral factor rather than a benefit.
21. I acknowledge the reasonable proximity of the site to Great Ness and the role of the village as part of a wider Community Cluster. There is no dispute between the parties that the appeal site would be a reasonably accessible location. I have no reason to come to an alternative view. I also note that the proposal would remove a derelict building from the site and that the site has little ecological value.
22. Paragraph 47 of the Framework sets out the objective to boost significantly the supply of housing. The proposal would result in an additional dwelling which would contribute, albeit modestly, to the supply of housing in the area. Moreover, it would also provide some opportunity for local employment associated with the construction phase and would support the local economy through increased spending from future residents. The proposal would also make a contribution towards maintaining the level of services within the area. Consequently, there would be some economic and social benefits.
23. However, the benefits identified would, in my view, be limited, and would be significantly and demonstrably outweighed by the harmful effect of the proposal on the character and appearance of the open countryside. The significant harm arising from the proposal means that the proposal would not achieve the environmental role necessary in order to constitute sustainable development.
24. I conclude, therefore, that the proposed development would not provide a suitable site for housing, having regard to the principles of sustainable development. The proposal would be contrary to policies CS4, CS5, CS6 and CS17 of the CS. It would also be contrary to policies S16.2(ix) and MD3 of the SAMDev. Finally, the proposal would conflict with the sustainable development objectives of the Framework. The Council's decision notice cites Policy H3 of the SABC Local Plan. However, that has been superseded by the adoption of the SAMDev and is no longer development plan policy. Accordingly, I afford it little weight.

## **Conclusion**

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

*Jason Whitfield*

**INSPECTOR**



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## Appeal Decision

Site visit made on 22 June 2016

by **B Bowker Mplan MRTPI**

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

Decision date: 12 August 2016

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**Appeal Ref: APP/L3245/W/16/3146736**

**Land adjacent to main road, Annscroft, Shrewsbury SY5 8AN**

- 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 Lovegrove-Fielden against the decision of Shropshire Council.
  - The application Ref 15/01684/OUT, dated 17 April 2015, was refused by notice dated 23 September 2015.
  - The development proposed is the erection of 3 detached dwelling to include means of access.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 detached dwelling to include means of access, at Land adjacent to main road, Annscroft, Shrewsbury SY5 8AN, in accordance with the terms of the application Ref 15/01684/OUT, dated 17 April 2015, subject to the conditions in the attached schedule.

### Procedural matters

2. The proposal is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis.
3. Following the Court of Appeal's judgment of 11 May 2016<sup>1</sup>, comments were sought from the parties in relation to its effect on the appeal proposal. Consequently, in this case, the Council have confirmed they no longer seek a contribution towards affordable housing. Based on all that I have read and seen, I have no reason to disagree with the Council's revised stance on this matter. As such, this decision will focus on the main issue below.

### Main Issue

4. The main issue is whether the proposal would provide a suitable site for housing with regard to local and national planning policy and the proposal's effect on the character and appearance of the surrounding area.

### Reasons

5. The appeal site is located to the southern edge of Annscroft with residential development to its west and north east. Annscroft is identified as a Community Cluster by the Sites Allocations and Management of Development Plan

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<sup>1</sup>*West Berkshire District Council and Reading Borough Council v Department for Communities and Local Government* [2015] EWHC 2222 (Admin).

(SAMDev). Policy CS5 of the Core Strategy (CS) and SAMDev Policy MD7a seek to strictly control market housing in the countryside in accordance with national policy. The proposal would fail to meet any of the exceptions noted in these local policies. Notwithstanding the Council's view that the site occupies a countryside location, the appellant states this Community Cluster does not have a development boundary. As this point is uncontested, I have no reason to disagree with the appellant on this matter. In addition, I note that the appeal site is to the immediate south east of dwellings that form part of Annscroft.

6. SAMDev Policy MD3 is also relevant to the proposal and supports sustainable housing development on windfall sites within settlements and in the countryside; particularly when housing guidelines appear unlikely to be met. The Council state that the Community Cluster that Annscroft is a part of has a housing guideline of 10-50 dwellings over the SAMDev plan period. Roughly 25-30 of these dwellings are to be located in Longden village, with the remaining divided evenly across the other settlements in this Community Cluster. To date, the Council state that 24 dwellings have either been granted or recommended approval across the whole cluster.
7. Of relevance, Policy MD3 requires consideration of the presumption in favour of sustainable development and assessment of benefits and impacts arising from the proposal. In addition, National Planning Policy Framework (the Framework) paragraph 47 seeks to significantly boost the supply of housing whilst paragraphs 14 and 49 set out that there is a presumption in favour of sustainable development. Paragraph 55 of the Framework relates to housing in rural locations stating such proposals should be located to enhance or maintain the vitality of rural communities and not occupy an isolated location.
8. The site occupies an elevated position in relation to Longden Road and dwellings to the west. Dwellings on the western side of the road are sited close and level with the road, whilst dwellings on the eastern side are set back by their elevated position and intervening tall established vegetation.
9. The dwellings would not look out of place with those to the east of the road and would also be elevated and similarly bounded to the front by high trees and vegetation. The proposal would continue the linear pattern of development at Annscroft, and as shown in the indicative plans, be set back and screened by trees and vegetation which would reduce its visibility from the main road. The proposal would extend development on the eastern side of the road further south into an open field. However, the proposal is minor in scale and would not go further south than dwellings on the opposite side of the road.
10. The indicative plans also show that the excavated vehicular access would be mostly screened by hedgerow and that the proposed visibility splays would not require extensive removal and lowering of roadside vegetation to implement. Satisfactory design and landscaping details at the reserved matters stage would ensure the proposal further blends into its surroundings, particularly by ensuring the south west side of the site has all year round leaf cover.
11. Therefore the proposal would provide a suitable site for housing with regard to local and national planning policy and not have a harmful effect on the character and appearance of the surrounding area. Consequently, the proposal would meet the requirements of Policies CS4, CS5, CS6 and CS17 of the Core Strategy, and SAMDev policies MD2 and MD12 which are of most relevance to

this matter. Combined, these policies seek communities in rural areas to become more sustainable by focussing private and public investment into settlements such as Community Clusters and require development to be of a high quality design that responds appropriately to existing development and Shropshire's natural environment.

#### *Planning balance*

12. I also acknowledge that a number of benefits would arise from the proposal, which although modest in scale, nonetheless attract weight in favour of the appeal. These include the proposal's contribution to housing supply, support to rural services, biodiversity enhancements, CIL revenue and creation of construction employment. In addition, no other harmful impact is identified by the Council and I have concluded no harm in relation to the main issue above. With this in mind, I am satisfied that the proposal would not occupy an isolated location and would simultaneously achieve the environmental, social and economic dimensions required to be considered sustainable development as outlined in the Framework.

#### *Other matters*

13. I note concerns regarding the effect of the proposal on neighbouring living conditions. However, owing to the intervening distances and vegetation between the site and surrounding dwellings, I am satisfied that no harmful effect would occur in this respect. Furthermore, design details including site layout are to be considered at the reserved matters stage.
14. I also note concerns in relation to highway safety, in particular owing to the use of the access by both domestic and agricultural vehicles. However, the Highway Authority have raised no concerns regarding the access arrangements proposed and I have no reason to reach a different conclusion on this matter.

#### *Conditions*

15. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording in the interests of precision and clarity and in order to comply with advice given in the Planning Practice Guidance.
16. A condition requiring the submission of reserved matters is required in view of the outline nature of the application.
17. A condition relating to the access being available prior to construction and to require parking and turning areas to be approved and completed prior to occupation of the dwellings are necessary for highway safety purposes.
18. I also note concerns in relation to surface water runoff so the Council's recommended condition is included. Finally, conditions relating to bat and bird boxes and details of external lighting are necessary in the interests of biodiversity.

(continued overleaf)

**Conclusion**

19. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be allowed subject to the attached schedule of conditions.

*B Bowker*

INSPECTOR

Attached – Schedule of Conditions.

## **SCHEDULE OF CONDITIONS**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans in respect of those matters not reserved for later approval: 1773/01B rev 20.03.2015, Arbitrary Datum scaled at 1/500, 99/123/2/A, 99/123/3/,99/123/5/A, 99/123/6/.
- 5) The dwellings hereby permitted shall not be occupied until the areas shown on the approved plans for the parking and turning of vehicles have been surfaced in accordance with details that have been previously submitted to and approved in writing by the local planning authority. The parking and turning areas shall be provided in accordance with the approved details and they shall not thereafter be used for any purposes other than the parking and turning of vehicles.
- 6) Prior to the commencement of development, a visibility splay shall have been constructed in accordance with the following approved plans: 1773/01B, 99/123/5/A and 99/123/6/. The access shall be retained thereafter. Shrubs, trees or other vegetation shall be lowered and not allowed to grow within the sight lines in accordance with the approved details.
- 7) The dwellings shall not be occupied until a means of access has been constructed in accordance with the following approved plans: 1773/01B rev 20.03.2015, 99/123/2/A, 99/123/5/A and 99/123/3/. The access shall be retained thereafter.
- 8) The access apron within the highway shall be constructed in accordance with the Councils specification as follows; 30mm thickness of 6 mm aggregate surface course, 50 mm thickness of 20 mm aggregate binder course and 350 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwellings being occupied.
- 9) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage and surface water shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 10) Prior to the occupation of the dwellings, details of 2 bat boxes and 2 bird boxes, to be erected on the site, must be submitted to and approved in writing by the local planning authority. The boxes shall be installed in accordance with the approved details and retained as such thereafter.
- 11) Prior to the erection of any external lighting on site, a lighting plan shall be submitted to and approved in writing by the local planning authority.

The external lighting shall be installed in accordance with the approved details and retained as such thereafter.

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# Appeal Decision

Site visit made on 5 July 2016

**by G Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 10 August 2016**

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**Appeal Ref: APP/L3245/W/16/3147333**

**Land between Lognor and Little Ryton, Shropshire**

- 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 & Country Planning (General Permitted Development) (England) Order 2015 as amended).
  - The appeal is made by Mr Phil Evans against the decision of Shropshire Council.
  - The application Ref 15/03493/PMBPA, dated 11 August 2015, was refused by notice dated 26 October 2015.
  - The development proposed is change of use from agricultural to residential use.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. This appeal is in respect of the right arising from Schedule 2, Part 3, Class Q of the Town and Country Planning Act (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). Subject to a prior approval process, Class Q of the GPDO grants permission for the change of use from agricultural buildings to dwellinghouses.
3. The description of development on the application from states "Please see accompanying planning statement". As this lacks substantive detail of the scheme, I have used the description of development from the decision notice, which is an accurate reflection of the nature of the proposal, in the banner heading above.

## Main Issue

4. I consider the main issue in this appeal to be whether or not the proposal constitutes permitted development for the purposes of the GPDO, with particular regard to paragraphs Q.1 (a) and (i).

## Reasons

5. The appeal property is a substantial barn with a lean-to extension to one side. With the exception of its front elevation, which features a roller shutter door, the building is of a lightweight construction with corrugated sheeting cladding a structure of steel members over a concrete slab. Some blockwork is employed in the lower parts of the external walls of the lean-to extension.

6. The appeal scheme seeks to convert the building for residential use. Externally this would include the installation of extensive amounts of fenestration on all elevations. Blockwork would be employed in the lower parts of the walls, with the existing elevational cladding to be otherwise retained where reasonable, and upgraded where necessary. A similar lightweight material would be employed in the roof covering.
7. I have considered whether the proposal complies with paragraph Q.1 (a). This states that development is not permitted by Class Q if, amongst other matters, "the site was not used solely for an agricultural use as part of an established agricultural unit". At my site visit I noted that the building was within agricultural uses, with the main part of the barn used for the storage of agricultural machinery, and the lean-to element housing pens, some with hens, some with pigs and others used for storage of feed and other agricultural paraphernalia. I am also mindful of the appellant's statement, which suggests that the pens are also used for lambing and the main barn for the storage of hay.
8. The appellant contends that this agricultural use was ongoing on 20 March 2013. However, the Council supplied a copy of the original planning application documents for the appeal property from 2007<sup>1</sup>, which show elements of the building to be used for stabling, a tack room and horse box storage. This would indicate that at the time of the original application the intention was to use the building for equestrian rather than agricultural use. I have no substantive evidence before me to suggest that the horses this building was originally intended for were to be used for an agricultural purpose. Whilst mindful of the appellant's case that the building has always been used solely for agricultural purposes, the original planning permission was clearly for a building with a significant element of equestrian use. In the absence of more persuasive evidence to the contrary, I am thus unable to conclude that the building was in use solely for agricultural purposes on 20 March 2013.
9. Moreover, I note that the lean-to element of the barn was not part of the original planning permission for the building. I have been supplied with no evidence, such as a Certificate of Lawful Development, to suggest that this element of the structure is lawful in planning terms. Consequently, in the absence of compelling evidence regarding the lawfulness in planning terms of the lean-to element of the building, I am not persuaded that the proposal would comply with the requirements of section (3) paragraph 5 (a) of the GPDO which states that: "The permission granted by Schedule 2 does not apply if... in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful". Thus, combined with the lack of substantive evidence regarding the agricultural use of the scheme, my doubts about the lawfulness of the lean-to extension lead me to the conclusion that the proposal would not constitute permitted development for the purposes of the GPDO.
10. Paragraph Q.1 of the GPDO states at (i) that development under Class Q is not permitted if it would "consist of building operations other than the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) waste, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse."

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<sup>1</sup> Council reference SA/07/0555/F



11. The Government's Planning Practice Guidance (PPG) at paragraph 105<sup>2</sup> gives further advice on the interpretation of this section. It states that "It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right."
12. In making my assessment of the scheme I am also cognisant of paragraph W of Schedule 2, Part 3 of the GPDO which states that the local planning authority may refuse an application where, in the opinion of the authority- (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question".
13. I saw at my site visit that the purpose of the structure was principally to enclose space for storage of haybales and farm machinery, rather than to support the more considerable loading that would be likely to arise from the residential use proposed. Whilst there is a metal roller shutter door on the front elevation of the appeal property, the other elevations are largely blank and lacking in similarly weighty items. I saw that the front two structural steel members were braced together at the rafters, and this may have been to provide support for the roller shutter door. I saw no other similar bracing in the rest of the barn. The appeal proposal would be likely to increase loading considerably on the currently blank elevations through the insertion of extensive fenestration. An additional floor within the building would also increase the load. Whilst I am aware of the assertion that buildings such as this are built to take significant loads, and that the frame has supported the blockwork walls for a number of years, I have no substantive evidence to show how it would cope with the additional loads arising from the appeal scheme. A lack of substantive evidence about the nature of the roof covering in terms of its suitability for residential use, combined with the additional loading on the structure from the proposed rooflight, also add to my overall concerns in these regards.
14. In assessing the scheme I have also had regard to the appeal decisions brought to my attention by the appellant<sup>3</sup> however, in both cases these were related to structures of a more modest scale and are not directly comparable. Moreover, I have nothing before me regarding the level of structural detail the Inspectors in those cases were provided with. I note also the appellant's suggestion that internal structural works are not development for the purposes of the Town and Country Planning Act 1990 (as amended) and, that as the PPG does not mention internal works an assessment of these should not be included in regards to the structural suitability of the proposal for residential conversion. This may be the case, however, this would not alter my conclusions on the insufficiency of information submitted to suggest that the existing structure could take the additional loads that would result from the proposal.

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<sup>2</sup> Reference ID 13-105-20150305

<sup>3</sup> APP/P1133/W/15/3030427 and APP/Q1825/W/15/3006087

**Other Matter**

15. As I have concluded that the proposal is not permitted development for the purposes of the GPDO it does not now fall on me to assess the prior approval criteria of the scheme as part of this appeal.

**Conclusion**

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

*GJ Fort*

INSPECTOR

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## Appeal Decision

Site visit made on 11 July 2016

**by Gareth Wildgoose BSc (Hons) MSc MRTPI**

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

**Decision date: 10 August 2016**

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**Appeal Ref: APP/L3245/W/16/3147626**

**Barn, Kenley Hall, Kenley, Shrewsbury SY5 6NH**

- 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 Mr Paul Jarrat against the decision of Shropshire Council.
  - The application Ref 15/03415/PMBPA, dated 6 August 2015, was refused by notice dated 27 October 2015.
  - The development proposed is an application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for change of use from agricultural to residential use.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Planning Practice Guidance (PPG) advises that the starting point for Class Q is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development. Class Q of the GPDO<sup>1</sup> states that development consisting of Q(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order<sup>2</sup>; and Q(b) building operations reasonably necessary to convert the building, is permitted development. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition that before beginning the development, the prior approval of the local planning authority will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
3. The Council refused the application for prior approval because it considered that the proposed building would not accord with Class Q(b) by reason of consisting of building alterations other than those permitted under Q.1.(i). The Council have also indicated that prior approval would be necessary in any case and that the design or external appearance of the building would not be acceptable due to the effect upon the setting of Grade II listed buildings.

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015

<sup>2</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended)

## **Main Issues**

4. The first main issue is whether the proposal would be permitted development under Class Q, subject to the prior approval of certain matters. If it is concluded that the proposal would be permitted development under Class Q, a second main issue would be the effect of the development on the character and appearance of the host building and the surrounding area, including the setting of Grade II listed buildings.

## **Reasons**

### *Whether the proposal would be permitted development*

5. The site comprises of an unlisted agricultural building located within a field that forms part of the agricultural holding of Kenley Hall and would be served by a nearby access to the field from the minor road running through Kenley. The building is located approximately 80m to the south of Kenley Hall and 30m to the north of Keld Cottage, both of which are Grade II listed buildings.
6. The existing building is a post and beam barn that is currently supported by telegraph poles sunken into the ground and with a concrete floor covering approximately half of the building which the appellant has indicated is a 110 mm thick slab with a 1200 gauge damp proof membrane. The current roof has two different roofslopes and roof levels comprising of lightweight corrugated metal sheeting with timber edge beams and purlins that support the rafters at regular intervals. The section of the building with the higher roof level currently faces towards the road and is in use as a hay store and parking for a tractor. Two thirds of the front elevation and the north eastern side elevation remain open and unenclosed, together with a door to the opposite south western side elevation. The other part of the building with the lower roof level is used for log cutting and storage, with a single opening on its south western side elevation.
7. Services are available within the site as the building has an existing mains water supply and electricity supply, together with connections to storm drains. There are also nearby foul drains to an existing septic tank system and an underground heating pipe to a biomass heating system is located in close proximity to the building.
8. The proposal seeks to convert the building to a four bedroom dwelling comprising of ground floor accommodation only, with submitted plans provided to indicate floor plans and elevations. The Council's concerns relate specifically to paragraph Q.1.(i) which states that development is not permitted if the development under Class Q(b) would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls or services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. The Council have not expressed concerns that the various tests set out in the other sub paragraphs of Q.1.would not be met and based on the evidence before me, I have no reason to take a different view.
9. The structural report provided by the appellant indicates that there is no structural reason why the existing post and beam structure could not be utilised to form the basis of a new panel frame structure that will meet all of

the structural requirements of a single storey building suitable for residential accommodation. However, the building operations necessary to convert the building would include timber frame infill panels bolted to existing timber posts and clad using sheeting to resist horizontal racking forces and support vertical loads from rafters, the addition of new rafters to stiffen the long spans and two internal walls designed as shear walls. In addition, the two rows of existing columns within the centre of the barn would require a method to enable the principle rafters spanning the lower level roof to extend to the internal columns supporting the high level roof.

10. With respect to Class Q, paragraph 105<sup>3</sup> of the PPG advises that "it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right".
11. The installation and replacement of exterior walls, roofs, doors and windows would fall within building operations reasonably necessary for the building to function as a dwellinghouse. However, to facilitate these alterations the construction of new timber frame panels, internal shear walls and the addition of rafters would comprise of the addition of significant structural elements to the building that would reinforce the existing post and beam framework to support vertical loads and transpose loads to foundation level. I consider that these structural alterations would fall outside of those permitted by Class Q(b) and Class Q.1(i) having regard to paragraph 105 of the PPG. In this respect, there is no substantive evidence before me that the existing post and beam framework would otherwise be structurally strong enough to take the loading from the replacement walls and roofs, together with the insertion of windows and doors proposed without substantial alterations to provide additional structural support and resistance. I therefore consider that it has not been demonstrated that the building could be successfully converted without significant new building operations outside of the definition at Class Q.1(i) of the GPDO.
12. I note the appellant's suggestion that some works do not need to be covered by the permitted development right, by reference to s55 (2)(a) of the Town and Country Planning Act 1990 (TCPA). This states that "the carrying out for the maintenance improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building" does not constitute development. Consequently, works falling within s55 (2)(a) of the TCPA do not constitute development and so do not need to be covered by the permitted development rights granted by Class Q of the GPDO.
13. However, s55(2)(a) of the TCPA only applies to works of "maintenance, improvement or other alteration", whereas Class Q relates to works reasonably necessary to convert the building. As a consequence, there is a difference between works that affect only the interior of the building falling under s55(2)(a) of the TCPA, compared to structural alterations that are development undertaken internally as part of a material change of use of a building and / or which affects the external appearance of the building. I consider that the

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<sup>3</sup> Reference ID: 13-105-20150305 – Revision date 05 03 2015

proposal clearly falls within the latter category and therefore comprises building operations which constitute development in accordance with the definition within s55 of the TCPA. The alterations to the building therefore necessitate consideration relative to Class Q of the GPDO.

14. In order to benefit from the permitted developments rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Q(b) and Q.1(i). From my own observations of the barn, and based on the evidence before me, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.
15. I conclude that the proposed change of use would not satisfy the requirements of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, with regard to the associated guidance within the PPG, and therefore is not development permitted by it.

*Prior approval*

16. The Council indicated that prior approval would be required for the design and external appearance of the building, due to the proximity to Grade II listed buildings. However, given my conclusion that the proposed change of use would not be development permitted under Class Q, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

**Conclusion**

17. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed under the prior approval provisions set out above. The appeal is, therefore, dismissed.

*Gareth Wildgoose*

INSPECTOR