

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

Date: Wednesday, 21 September 2016

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

**Date:** Thursday, 29 September 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 Everall  
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

To confirm the Minutes of the meeting of the Central Planning Committee held on 25<sup>th</sup> August 2016. (Minutes to Follow)

Contact Michelle Dulson on 01743 257719.

## 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 26<sup>th</sup> September 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 1 - 12)

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

## 6 Poultry Broiler Units, Great Ness, Montford Bridge, Shrewsbury - 16/02667/FUL (Pages 13 - 22)

Erection of an extension to an agricultural building for renewable energy biomass boiler room and open storage for agricultural purposes and all associated works

## 7 Proposed Residential Development Land Off Washford Road, Shrewsbury - 16/01651/OUT (Pages 23 - 48)

Outline application for residential development to include access

## 8 Forge Farm, Upton Magna, Shrewsbury - 16/03371/FUL (Pages 49 - 58)

Erection of grain storage building to include biomass boiler and woodchip storage

## 9 Schedule of Appeals and Appeal Decisions (Pages 59 - 106)

## 10 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, 27<sup>th</sup> October 2016 in the Shrewsbury Room, Shirehall.



Committee and date  
 Central Planning Committee  
 29 September 2016

Item  
**5**  
 Public

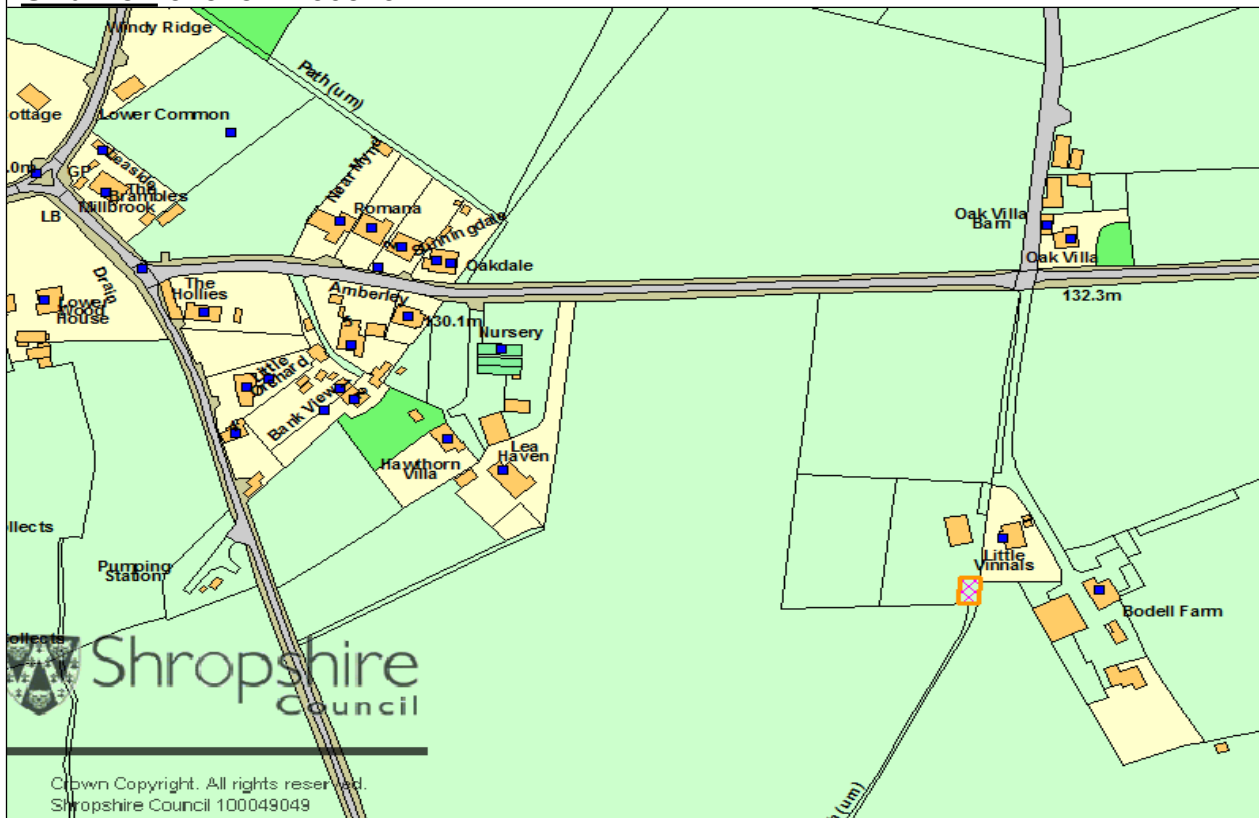
## Development Management Report

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

**Grid Ref:** 345781 – 305231



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The application is brought back to Committee having been presented to the Committee at its last meeting which took place on August 25<sup>th</sup> 2016, at which members concluded not to support the Officer recommendation and decided that planning permission should be granted subject to an occupancy condition.

The application is therefore brought back to Committee in order to seek members approval with regards to recommended conditions and informatives' to be attach to the approval notice. The original report to Committee is attached as appendix one.

The recommended conditions are:

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.

3. No built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in the approved details.

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

4. This permission shall inure for the benefit of Mrs Ruth Gamble only and shall not inure for the benefit of the land. Upon the applicant ceasing to occupy the site it shall not be used for any purpose other than the lawful use that existed prior to the determination of this application.

Reason: This permission is only granted in view of the exceptional circumstances of the applicant.

5. The holiday cabin structure shall fall within the definition of a caravan as set out in The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 (or any order revoking or re-enacting that order with or without modification).

Reason: To ensure proper control of the development and to prevent the establishment of a permanent residential unit in an area where new dwellings would not normally be permitted.

6. Notwithstanding the details indicated prior to any above ground works commencing details of the external materials and their colour to be used for the external walls and

roof and the details of the windows and doors and their colour 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 and shall be retained as such for the lifetime of the development.

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

7. Notwithstanding Classes C2 and C3 of the Schedule to the Town and Country (Use Classes) Order 1987, the development shall be used to provide holiday accommodation only and shall not be occupied as any permanent unrestricted accommodation or as a primary place of residence.

Reason: The site is outside of any recognised settlement and is in an area where unrestricted residential accommodation would not be appropriate. The lodge is permitted in order to provide holiday accommodation, with consideration to the circumstances of the applicant.

8. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of the units of holiday accommodation on the site, and of their main home addresses, and shall when requested make this information available at all reasonable times to the local planning authority.

Reasons: To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.

9. On cessation as use for Holiday accommodation by the applicant, the structure will be removed off site and the site returned to its current agricultural form.

Reason: In order to ensure the temporary structure hereby approved is not used for any other use and to comply with the detail as set out in the Design and Access Statement submitted in support of the application and the personal circumstances of the applicant, as it is acknowledged that owing to the site's location there will be very minimal impact on the surrounding landscape as a result of the construction of the two-part mobile unit.

#### Informatives:

- Standard Informatives – pre-commencement conditions.
- A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:  
[www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/](http://www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/).  
The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

- It is recommended that consideration is given to the installation of a sprinkler system that conforms to the 'BS 9251:2005 - Sprinkler Systems for Residential and Domestic Occupancies - Code of Practice' published by the British Standards Institute. Further guidance on residential sprinkler systems can be obtained by contacting the British Automatic Sprinkler Association Ltd on 01353 659187 or their web site [www.basa.org.uk](http://www.basa.org.uk)

Access for Emergency Fire Service Vehicles  
It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5. provides details of typical fire service appliance specifications.

- The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
- Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- This planning permission does not authorise the applicant to construct any means of access over the publicly maintained highway (footway or verge) or carry out any works within the publicly maintained highway, or authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>  
Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

### **Appendix One.**

**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:

- ② 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.
- ② 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 -



Committee and date  
 Central Planning Committee  
 29 September 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

<b><u>Application Number:</u></b> 16/02667/FUL	<b><u>Parish:</u></b>	Great Ness
<b><u>Proposal:</u></b> Erection of an extension to an agricultural building for renewable energy biomass boiler room and open storage for agricultural purposes and all associated works		
<b><u>Site Address:</u></b> Poultry Broiler Units Great Ness Montford Bridge Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Great Ness Poultry Ltd		
<b><u>Case Officer:</u></b> Kelvin Hall	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 340263 - 318560



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

## REPORT

### 1.0 THE PROPOSAL

1.1 The planning application seeks permission for an extension to an existing agricultural storage building at the poultry rearing site at Great Ness. The width, height and roof slope of the extension would match that of the existing building. It would measure 59 metres wide x 8 metres x 4.72 metres to eaves and 8.26 metres to ridge. The southern half of the extension would provide an enclosed area for a biomass boiler; the northern part would have open sides, providing a storage area for plant and farm equipment.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The poultry rearing development at Great Ness is located approximately 450 metres to the south-east of the village. The site includes seven large poultry sheds, a number of feed silos, storage buildings, a weighbridge and office, and LGP tanks. The proposed development would form a north-easterly extension of an existing storage building which is situated at the south-western side of the site, onto an area of hardstanding. Land surrounding the poultry site is in agricultural use.

2.2 Access to the site is gained from the old A5 public highway via a dedicated access track. The nearest residential property is the site manager's dwelling, approximately 100 metres to the north-west. The nearest non-linked dwelling is Rodefens Farm, approximately 110 metres to the south.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The views of the Parish Council are contrary to the Officer recommendation. The Planning Manager, in consultation with the Chairman and Vice-Chairman of the Planning Committee agree that the Parish Council has raised material planning issues and that it is appropriate for the application to be determined by Planning Committee.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

##### 4.1.1 Great Ness and Little Ness Parish Council Objects.

1. This application will further industrialize this area of the parish. The visual impact will be considerable, in particular from the vantage point of Nesscliffe Hill and Great Ness, areas visited and enjoyed by so many people, who wish to enjoy the beauty of the countryside. Already attempts to shield the chicken farm from public view have proved inadequate, the addition of this biomass boiler room will only add to a highly visible industrialized complex, so out of keeping with rural nature of the parish.

2. The introduction of this biomass boiler will inevitably increase the smell and flies, already prevalent in this area. As Shropshire Council are aware there have been several complaints in respect to the noxious smells, since the chicken farm was built. The suggestion that by extending the height of the chimneys will mitigate the local fallout from pollutants, will only extend the range of such fallout.

3. The suggestion, by the applicant, that this is some how a 'sustainable development' is questionable. The economic benefits of employment for 3 people is not a significant contribution to the local area and the social and environmental role have already been



identified and are clearly all negative.

4.1.2 **SC Drainage** Advice provided (see informatives in Appendix 1).

4.1.3 **SC Public Protection** Having considered the location I have no objections assuming that the flue serving the biomass boiler terminates above ridge height of the building preferably by 1m as a minimum to ensure suitable dispersion of efflux gases. Should this not be the case an odour assessment may be required to ensure no impact on the local area particularly properties closest to the proposed installation.

Should the applicant wish to store a fuel type that is potentially malodorous, for example poultry litter, an odour assessment will be required taking into account the cumulative impact of the development in this proposal and any other activities in the locality which may produce odour e.g. poultry units. In order to ensure no odour assessment is required details of how the malodorous material will be stored so as not to release odour must be submitted. This element could be conditioned by requiring details to be submitted for approved prior to any malodorous fuel product being stored at the site (see Appendix 1).

4.1.4 **Shropshire Fire Service** Advice provided (see informatives).

#### 4.2 **Public comments**

4.2.1 The application has been advertised by site notice. One objection has been received, on the following grounds:

- the supporting Environmental Report is from an earlier application relating to 2013
- while the use of renewable energy biomass is good, concerns regarding odour particularly relating to open storage and what will be stored
- concern raised by consultant on ventilation should be enforced if approved

### 5.0 **THE MAIN ISSUES**

- Planning policy context; principle of development
- Siting, scale and design
- Local amenity and pollution considerations
- Other considerations

### 6.0 **OFFICER APPRAISAL**

#### 6.1 **Planning policy context; principle of development**

6.1.1 At present the broiler units are heated using a biomass boiler fuelled by straw and miscanthus grass, and LPG. The proposed extension to the existing agricultural building would house plant to enable a greater quantity of biomass to be utilised for the heating and electricity needs of the units. The applicant has advised that the capacity of the plant has been sized to ensure that sufficient heat and electricity can be produced to avoid the need for LPG to be used. It is understood that the plant would enable some electricity to be exported to the National Grid when demand at the site is low, for example at times when the broilers have been removed from the buildings and heating of the units is not required. However the applicant has advised that, on an annual basis, the site would remain a net importer of electricity. The proposal would therefore allow the site to become more sustainable in terms of fuel for heating, by reducing its dependency on non-renewable energy supplies.

6.1.2 One of the core planning principles of the NPPF is to encourage the use of renewable

resources. Similarly, one of the objectives of the Core Strategy is to promote the generation of energy from renewable sources. The proposal is therefore in line with both national and local planning policies in principle.

- 6.1.3 The proposed development is located within an area defined as countryside for planning policy purposes. Core Strategy policy CS5 allows for development on appropriate sites which maintain and enhance countryside vitality and character, where they improve the sustainability of rural communities by bringing local economic and community benefits. It states that this particularly relates to proposals such as agricultural related development. The impact of the proposal on countryside character is discussed below, however it is considered that policy CS5 does allow for development of the type proposed in principle.

## **6.2 Siting, scale and design**

- 6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings. In this respect the proposal is in line with policy MD7b.

- 6.2.2 The concerns of the Parish Council that the visual impact would be considerable, particularly from Nesscliffe Hill and Great Ness are noted. Nesscliffe Hill is approximately 1.6km away and Great Ness approximately 450 metres away. In assessing the impact on the visual character of the area Officers note that the proposed extension would be relatively small, extending the 38 metres long building by 8 metres. The proposal would not increase the overall footprint of the poultry development, and the design, materials and colour of the extension would match the existing building. Given the scale and context of the poultry development it is not considered that the building extension would have a significant impact on the appearance of the development, or on the visual qualities of the area.

## **6.3 Local amenity and pollution considerations**

- 6.3.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity.
- 6.3.2 Odour and flies: The concerns of the Parish Council that the proposal would increase smell and flies are noted. The boiler plant to be housed within the building extension would utilise biomass fuel such as straw, miscanthus grass and wood pellets. It is not proposed to store poultry manure or other odorous materials within the building. It is therefore not anticipated that the proposal would generate adverse levels of odour or attract flies. However a condition can be imposed on the planning permission to require that the building is not used for the storage of malodorous material such as poultry manure unless prior approval has been granted to an odour assessment. This would be in line with the recommendation of the Public Protection Officer. One resident has noted that supporting information submitted relates to an earlier application. The application is

accompanied by a previous odour management plan and impact assessment. However given the type of material to be stored these documents have not been considered as part of the current application.

6.3.3 Atmospheric pollution: Following advice received from the Council's Public Protection Officer the design of the building extension has been revised to increase the height of the flue to one metre, in order to ensure satisfactory dispersion of emissions from the boiler. The flue design is now considered to be acceptable.

#### 6.4 **Other considerations**

6.4.1 The building extension would be constructed on an area of hardstanding and therefore would not result in habitat loss or other impact on protected species.

6.4.2 The site lies within Flood Zone 1 denoting a low risk of flooding. Surface water drainage would be to soakaway and this is considered to be an acceptable means in line with advice from the Council's Drainage Officer.

6.4.3 The application states that fuel deliveries to the site would be every 3 to 4 months, and as such it is not considered that the proposal would result in significant additional traffic on the local highway network.

#### 7.0 **CONCLUSION**

7.1 The proposed extension to an existing storage building would house biomass boiler and other plant to enable a greater proportion of heating and electricity for the adjacent poultry houses to be produced using biomass. It would therefore reduce the reliance on LPG, a non-renewable form of energy. The extension would also allow the covered storage of farm equipment which is currently situated in the open.

7.2 The proposed extension comprises a relatively small extension to the building, and would not increase the footprint of the poultry development. The extension would match in design, materials and colour the existing storage buildings at the site, and would not have a significant impact on the visual character of the area. The proposed development has been satisfactorily designed to avoid adverse impact on the local area due to emissions from the boiler, and does not raise other significant land-use issues. As such it is considered that the proposal is an acceptable development at the existing poultry rearing site, in line with Development Plan and national planning policy, and that the granting of planning permission subject to the conditions set out in Appendix 1 can be recommended.

#### 8.0 Risk Assessment and Opportunities Appraisal

#### 8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles  
 CS17 - Environmental Networks  
 CS18 - Sustainable Water Management  
 MD7B - General Management of Development in the Countryside

RELEVANT PLANNING HISTORY:

- 09/01583/FUL Erection of four poultry broiler units and ancillary works including off-site highway improvements REFUSE 27th May 2010
- 10/03789/EIA Erection of four poultry units, ten feed bins and ancillary buildings; formation of new access road; landscaping scheme (amended description) GRANT 16th May 2011
- 11/04783/FUL Installation of solar PV modules on poultry shed roof. APPRET 24th November 2011
- 11/05381/AMP Application for non-material amendment to PP 10/03789/EIA to allow for the relocation of swale and a re-design in tree planted area WDN 17th January 2012
- 12/02011/FUL Erection of an additional feed bin GRANT 2nd July 2012
- 13/01383/AGR Erection of an agricultural storage building to store farm implements and machinery PNR 6th May 2013
- 13/04305/EIA Erection of three poultry rearing buildings, eight feed bins and associated works PDE
- 15/03985/CPL Application for a Lawful Development Certificate for the proposed installation of Solar Photovoltaic panels LA 2nd November 2015
- 16/02667/FUL Erection of an extension to an agricultural building for renewable energy biomass boiler room and open storage for agricultural purposes and all associated works PDE
- 16/03120/FUL Erection of a steel portal framed general purpose farm building and grain store and all associated works APPRET

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)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member  Cllr David Roberts
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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

3. The external materials shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

4. Prior to any malodorous fuel product being stored at the site for use as biomass fuel the applicant shall submit details for approval which state how odour will be controlled. It shall consider cumulative impacts of odour where other malodorous activities are taking place in close proximity.

Reason: to protect the amenity of the area.

### **Informatives**

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

2. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: [www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/](http://www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/).

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

3. As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link:  
<http://www.shropshirefire.gov.uk/planning-applications>

Specific consideration should be given to the following:

Enclosed Agricultural Buildings over 280m<sup>2</sup>

Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

'THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5.' provides details of typical fire service appliance specifications.

Water Supplies for Fire fighting - Building Size

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m<sup>2</sup> or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.

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Committee and date  
 Central Planning Committee  
 29 September 2016

Item  
**7**  
 Public

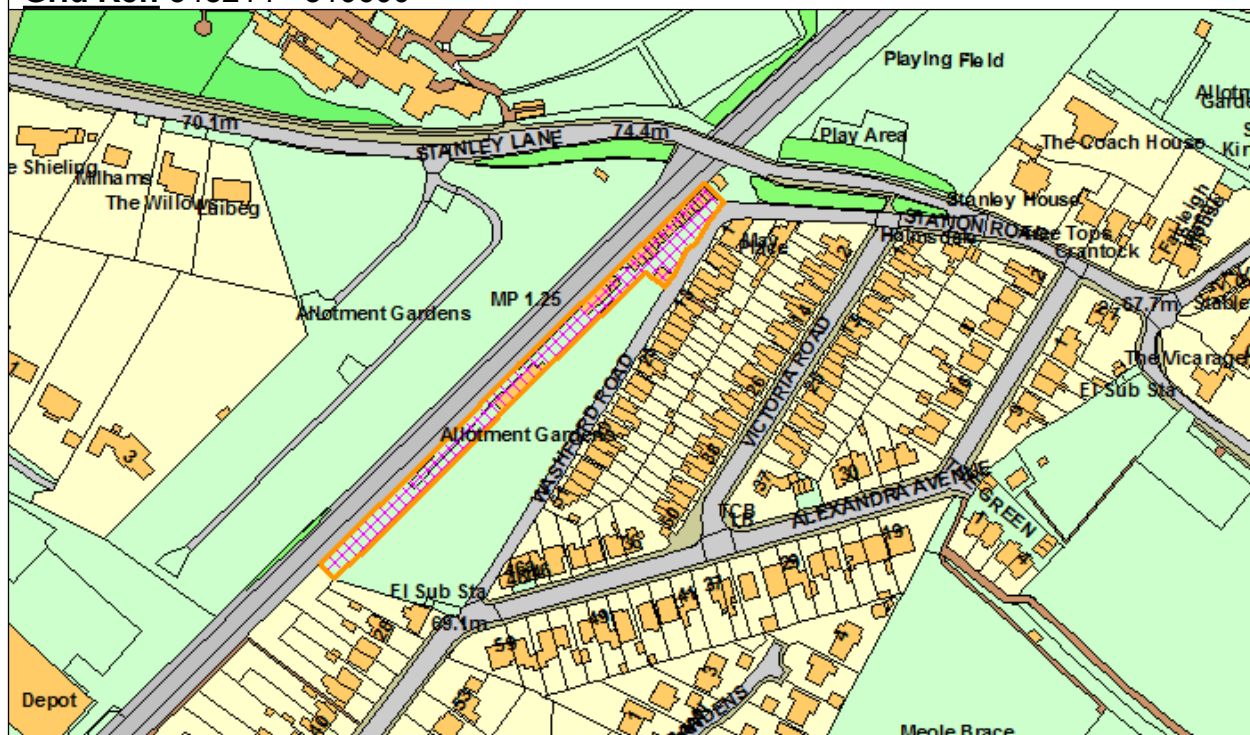
## Development Management Report

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>Application Number:</b> 16/01651/OUT	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Outline application for residential development to include access		
<b>Site Address:</b> Proposed Residential Development Land Off Washford Road Shrewsbury Shropshire		
<b>Applicant:</b> Mr A Corfield		
<b>Case Officer:</b> Frank Whitley		<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 348214 - 310600



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

Recommended Reason for Approval

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 The application seeks outline permission for the development of 6No residential dwellings to include a means of access.

1.2 The site is within, though on the edge of Meole Brace Conservation Area.

1.3 Outline planning permission was granted for the same scheme on 19 August 2013 under reference 12/04866/OUT. This planning permission has not been progressed and has now lapsed.

1.4 An earlier identical application 11/04364/OUT was refused and also dismissed at appeal, though only on the grounds of affordable housing contribution issues. In all other respects the application was found to be satisfactory, despite other reasons for refusal given by the Council. This appeal decision is a material consideration.

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

2.1 The application site is long and thin, but wider close to the site access. For the most part it lies between a railway line and allotment gardens which are bounded by Washford Road. The site was formerly a builders yard though is now understood to be used in connection with a marquee business. The site also contains workshops and blocks of lock-up garages, of which the 13 nearest to the access would be retained. The existing access to the garages is to remain open.

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

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution. At the request of the locally elected member, the Area Planning Manager and Chair of the Central Planning Committee have decided that the application should be decided by elected Members.

### **4.0 Community Representations**

#### **4.1 Consultee Comments**

4.1.1 **Ecology- no objection** subject to conditions and informatives

An Ecological Appraisal was carried out on this site in June 2016 by Pearce Environment.

### Habitats

The site 'comprises of a long, narrow strip of disturbed land and hardstanding, on which are set several buildings'. Running adjacent to the north-western boundary is a single track railway line and allotments lie adjacent to the south-western boundary.

'More garden allotments lie beyond the railway line to the northwest of the site, whilst the surrounds to the south and east consist mainly of residential areas.'

'The majority of the site consists of a large area of hardstanding, on which is placed three garage buildings and a storage building in the northeast portion of the site, plus a larger building used for office/ business purposes in the centre of the site'.

'The 13 individual garage units of the first building, closest to the northeast boundary of the site, are to be retained during development, but the remaining units and garage/ storage buildings are [to] be removed'.

Palisade fencing forms the north-eastern and north-western boundaries of the site. 'Narrow strips of raised concrete and some disturbed land dot this boundary'.

'The eastern-most section of the southeast boundary consists of an intact hedgerow'. 'The mid-section of the southeast boundary is composed of further metal palisade fencing, most of which lies within a defunct, hawthorn-dominated hedgerow'. 'The western-most end of the southeast boundary consists of timber-panelled fencing, some of which is intact but some of which is damaged and has gaps leading into the allotments directly to the south of the site ... Sporadic strips of disturbed land, some of which is set upon raised concrete, run adjacent to this boundary.'

'The southwest portion of the site consists of an area of disturbed land'. 'This disturbed area is filled with a large variety of debris including timber and metal sheets, machinery parts, bulk bags and brick/ slab piles.'

The landscaping scheme should include tree, shrub and hedgerow planting using native species of local provenance.

### Reptiles

The site contains 'potential refugia and some basking opportunities for common

reptile species and local records for common lizard were found within 2km of the site.’ A reptile survey was therefore undertaken in June and July 2016.

At least one common toad was recorded during six of the seven survey visits (with a maximum count of 4 adults and 1 juvenile). A field vole was also recorded on one occasion.

‘Although no reptile species were found on the site [during the surveys], due to the presence of local records for common lizard, optimal habitat on site and presence of common toads, Reasonable Avoidance Measures (RAMs) have been detailed in Section 4 to mitigate the risk of injury to herptile species.’ The method statement, which should be followed in full during the works, includes the following elements:

- An Ecological Clerk of Works (ECW) will be appointed to ensure that the reasonable avoidance measures are enforced.
- The ECW will carry out a pre-commencement walkover of the site.
- ‘A hand search for herptiles will be undertaken by the appointed ECW prior to removal of any structures, refugia or vegetation on site.’
- If any herptiles are found when the ECW is not present, the ECW will be contacted for advice.
- ‘Contractors are not to handle herptiles unless informed to do so by the ECW.’
- ‘Any excavations will be back-filled on the same day as excavation, or checked by the ECW immediately prior to backfilling.’
- ‘A means of escape, such as a wooden ramp, will be provided in all excavations or, alternatively all excavations should be well-covered with plywood.’
- ‘No piles of loose materials from building removal such as bricks, timbers and roofing materials are to be created during works.’
- ‘All material will be kept on existing areas of hardstanding or removed immediately from the site.’

### Amphibians

There is a large amount of debris on the site which provides potential refugia for amphibians. During a hand search under debris, a common toad and a juvenile smooth newt were found.

There is a pond approximately 15m to the south-west of the site. A Habitat Suitability Index assessment scored this pond as having ‘Below Average’ suitability to support great crested newts. Common frog tadpoles and four smooth newts were observed during netting of the pond.

Given the close proximity of the pond to the site, ‘eDNA analysis was undertaken to determine the presence/likely absence of great crested newts.’ ‘The results of the eDNA testing came back negative for great crested newt, indicating their absence

from Pond 1 during the breeding season’.

Further surveys for great crested newts are therefore not required, but a Reasonable Avoidance Measures Method Statement has been provided by Pearce Environment to ensure that amphibians (and reptiles) are not harmed by the development.

### Bats

‘Several of the buildings on site had small crevices between the roof and walls which provide moderate potential for roosting bats. However, these crevices were covered in cobwebs and no further evidence of bat presence was found.’

The site may be used by foraging and commuting bats.

To enhance the roosting opportunities on the site post-development, bat boxes should be erected on the new buildings.

New lighting on the site should be sensitive to bats and follow the Bat Conservation Trust’s guidance. ‘All proposed new lighting will be directed away from any vegetated boundary features to retain dark corridors for commuting bats.’

### Birds

The buildings and hedgerows provide potential nesting opportunities for birds.

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

To enhance the nesting opportunities on the site post-development, a selection of bird boxes should be erected on the new buildings.

### Badgers

No evidence of badgers was observed on or near the site.

### Conditions and informatives

The following conditions and informative are recommended for inclusion on the decision notice:

**Ecological survey – working in accordance with Herptile RAMMS**

Development shall occur strictly in accordance with section 4 of the Ecological Appraisal (Pearce Environment, June 2016), unless otherwise approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of reptile and amphibian species.

**Landscaping plan**

No development or clearance of vegetation shall take place until a scheme of landscaping has been submitted and approved. The works shall be carried out as approved, prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the local planning authority, unless the local planning authority gives written consent to any variation. The submitted scheme shall include:

- a) Planting plans, including wildlife habitat and features (e.g. hibernacula)
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate
- d) Native species used are to be of local provenance (Shropshire or surrounding counties)
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- f) Implementation timetables

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

**Erection of artificial nesting/roosting boxes**

Prior to the first occupation of the buildings hereby permitted, a suite of artificial nesting and/or roosting boxes shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

The following artificial nesting/roosting boxes shall be provided:

1. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species.
2. A total of 2 woodcrete artificial nesting boxes suitable for house sparrows.
3. A total of 2 woodcrete artificial nesting boxes suitable for robins, blackbirds or tit species.

4. A total of 2 woodcrete artificial nesting boxes suitable for house martins or swifts.

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

### **Lighting plan**

Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Bats and Lighting in the U.K.* guidance.

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

#### **4.1.2 Conservation- no objection**

Further to our earlier comments we acknowledge that the agent has now submitted an Addendum to the Design and Access Statement which makes reference to the location of this site within the Conservation Area boundaries, and that any development here will need to be sited and designed such that it will preserve and enhance the character and appearance of the Conservation Area. Should this application be approved we request that our Team is consulted at the Reserved Matters stage, and we recommend that conditions are included in the Decision Notice requiring full details for review and approval of the layout, scale, architectural detailing, external materials, external finishes, boundary treatments/enclosures and landscaping.

#### **4.1.3 Archaeology- no comment**

#### **4.1.4 Public Protection- no objection** subject to conditions relating to safeguarding against contaminated land

Having viewed the proposed elevations it is noted that no windows on the elevation facing the railway will be provided into habitable rooms. As a result I have no specific noise concerns associated with internal areas. External areas are placed away from the road and therefore provided with a level of protection considered appropriate in this location. As the land is adjacent to the railway line there is the potential for contamination of the land as a result of historical use. As a result the following condition is recommended:

##### Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and

the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and Neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/>

[Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf](http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf)

#### 4.1.5 **Highways – no objection** subject to conditions and informatives

##### **Recommendations**

**No Objection** – subject to the development being carried out in accordance with the approved plans and the following conditions/informatives.

**Observations/Comments:**



It is noted that a previous proposal for residential development on this site was secured on appeal. The existing residential streets (Washford Road and Station Road) is satisfactory to accommodate the number of dwellings being sought by this current outline planning application. Subject to the construction of a suitable new access and service road, including the appropriate car parking spaces, turning and passing facilities. The adjacent streets are particularly sensitive in respect to on-street car parking. Therefore any vehicular activity generated by this site should not compromise or exacerbate the current status quo.

**Conditions:**

**New Access**

No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

**Car Parking**

The development hereby permitted shall not be brought into use until the car parking, turning and passing areas shown on the approved plans has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

**Visibility Splays (Dimensioned in Condition)**

Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) a visibility splay measuring 2.4 x43 metres to the nearside carriageway edge shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

**On-site Construction**

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

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

construction works

Construction traffic management plan, to control and manage all vehicular activity associated with the development to & from the site, along the local highway network.

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

**Informatives:**

**No drainage to discharge to highway**

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

**Works on, within or abutting the public highway**

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

**Extraordinary maintenance**

The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.

**4.1.6 Affordable Housing- no objection**

The affordable housing team were consulted and responded prior to the following WMS becoming a material consideration.:

Affordable housing is considered further as a main issue later in the report

**4.1.7 SUDS- no objection** subject to conditions and informatives

The proposed surface water drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

1. The Surface Water Management Plan state that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

The Highway Authority will accept surface water drainage from the adopted road to discharge into soakaways provided the percolation tests show that the ground is suitable for soakaways.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slopes towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access/ driveway runs onto the highway.

3. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

Reason: To ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces.

4. Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

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

Attenuation

Greywater recycling system

Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

#### 4.1.8 **Shropshire Fire and Rescue- no objection**

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link: <http://www.shropshirefire.gov.uk/planning-applications>

Specific consideration should be given to the following:

##### Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of all points within the dwelling house. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

'THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5.' provides details of typical fire service appliance specifications.

##### Sprinkler Systems - Residential Premises

In relation to the residential premises within the application, the benefit of installing a correctly designed sprinkler system which can detect and control a fire at an early stage of development will rapidly reduce the rate of production of heat and smoke. Evidence suggests that where fire sprinkler systems have been fitted, fire deaths have almost been eliminated, fire injuries reduced by over 80%, and a significant improvement in fire fighter safety achieved. In addition, property damage has been reduced by over 80% and where sprinklers are fitted there is a considerable reduction in the volume of water taken from service mains by the fire and rescue service for fire fighting.

Accordingly, It is recommended that consideration is given to the installation of

sprinkler systems within the residential properties that conform to the 'BS 9251:2005 - Sprinkler Systems for Residential and Domestic Occupancies - Code of Practice' published by the British Standards Institute.

Further guidance on residential sprinkler systems can be obtained by contacting the British Automatic Sprinkler Association Ltd on 01353 659187 or their web site [www.basa.org.uk](http://www.basa.org.uk)

#### 4.1.8 **Shrewsbury Town Council- no objection**

Commenter Type: Parish Council

Stance: Customer made comments neither objecting to or supporting the Planning Comment: The Town Council notes that a new application has been submitted for this location and maintains the view that the size and shape of this site as wholly inappropriate for residential development and the proximity of the site to the railway line will engender a poor quality of life for its residents. Additionally Washford Road already has significant parking and access pressures. This development places an even greater burden on a road that already struggles to cope.

#### 4.1.9 **Public Comments**

25 objections have been received including from Meole Village Residents Association. Issues can be summarised as follows:

The submission does not recognise the significance of the Conservation Area  
Dwellings should be bungalows in order to reduce impact on setting

Current use of site not as described in application

Part of the site is not “waste land” as described in application

Washford Road has no footpath

Access difficult for large lorries eg refuse collection and emergency vehicles

Washford Road inadequate for increased traffic levels

Development will shade out allotment

Drainage and sewerage capacity

Possible contamination of land

Loss of hedge to facilitate new access

Loss of existing car parking spaces

Impact on residential amenity of future occupiers and neighbouring residents

Washford road and Station Road are pedestrian routes, particularly for schoolchildren

Area of extended “wasteland owned by British Rail” in application is in fact an extended garden with wildlife pond

Submitted drawings may not be to scale

Site notice not adequately displayed

Inaccuracies/inconsistencies with D&A statement

Traffic situation has got worse since 2010

Sewerage and electricity system inadequate

Garages cannot be used by residents of the development because they are already in use.

Harm to quality of environment and quality of life

## 5.0 THE MAIN ISSUES

Principle of development

Impact upon character of Meole Brace Conservation Area

Highways and Access

Residential Amenity

Affordable Housing

Other matters

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

6.1.2 The NPPF states that one of its core planning principles is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.

6.1.3 CS6 seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.

6.1.4 The provision of housing within the urban area of Shrewsbury according to the adopted SAMDev Plan S16. Core Strategy CS2 and MD1 identifies Shrewsbury as the primary focus for housing development for Shropshire.

6.1.5 S16.1 states that Shrewsbury will provide the primary focus for development for Shropshire, as a sub-regional centre and Shropshire's growth point, providing approximately 6,500 dwellings and 90 hectares of employment land during the period 2006-2026.

CS2 also seeks to make the best use of previously developed land

6.1.6 The application site is a brownfield site adjacent to a railway on the edge and within Meole Brace Conservation Area in Shrewsbury.

6.1.7

## 6.2 Impact upon character of Meole Brace Conservation Area

6.2.1 The NPPF states at Chapter 12 that LPAs should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. LPAs are required to take into account the desirability of new development making a positive contribution to local character and distinctiveness.

6.2.2 CS17 and MD13 together seek to ensure that wherever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.

6.2.3 The Washford Road area of Meole Brace comprises regular rows of attractive terraced and semi-detached housing facing directly onto the road, though typically with small front gardens. The proposed indicative plans show similarly small dwellings, which are considered capable of being designed and constructed to reflect the typical design of nearby dwellings. The submitted plans and updated Design and Access statement and has been considered by the Conservation Officer and no objection has been received.

6.2.4 The shape and size of the site is unusual, though having regard to the indicative plans submitted, it is considered that the site can be developed without detriment to the character of the Conservation Area, the setting of the allotments and without conflict with CS17 and MD13. Accordingly, the proposal does not conflict with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 6.3 Highways and Access

6.3.1 Station Road allows to way traffic up to the point of the existing application site access. Washford Road is one way from north to south.

6.3.2 A new access is intended to be created approximately 42m along Washford Road. For the avoidance of doubt, the existing access is proposed to remain open (some inconsistencies in the application have been noted) and the garages to the north of the new access will remain in place.

6.3.3 The application site is no longer used as a builders yard, but instead by a marquee business. The current use is still capable of generating traffic and could in any event revert to the former use. The adjacent streets are noted to be particularly sensitive to parking pressures and use by larger vehicles. However there is no reason once construction is completed, why the development should add to parking pressure because parking spaces are allocated within the application site. It also is

not considered that the development would significantly add to existing traffic levels.

Shropshire Council Highways raise no objection (subject to the imposition of conditions relating to the access, car parking and visibility splays).

6.3.4

#### 6.4 **Residential Amenity**

6.4.1 CS6 seeks to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity.

6.4.2 The indicative floor plans and layout provide comfortable living accommodation for each dwelling. The application states that internal floor areas of 60sqm can be achieved over two storeys within a garden area for each dwelling of 60sqm. Passing width to the front of each dwelling is 4.6m. On balance, amenity within the site is considered to be satisfactory.

6.4.3 Public Protection team has considered the proximity to the railway. In as far as indicative plans are capable of illustrating, occupiers are not likely to be subject to unreasonable noise or vibrations. No objections have been raised, other than the suggestion of a condition relating to possible contamination of the land.

Neighbouring dwellings on Washford Road will overlook the proposed dwellings, but at a minimum distance of approx. 30m separation, privacy will not be unreasonable affected. Short distance views over the allotments will remain.

Short term disruption and loss of amenity will occur during the construction period, though this can be reduced by imposition of a condition limiting construction hours.

#### 6.5 **Affordable Housing**

6.5.1 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.

6.5.2 Following the quashing of this WMS at the High Court, the WMS has now been reinstated following a successful challenge by the Government through the Court of Appeal. Consequently Planning Practice Guidance was amended on 19<sup>th</sup> May 2016 to reflect the WMS.

6.5.3 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 normally require an Affordable Housing Contribution



for applications for 10 or less dwellings and less than 1,000sqm floor area in the majority of cases.

6.5.4 This proposed development consists of the provision of six dwellings and will create less than 1,000m<sup>2</sup> of floor space. 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-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.

6.5.5 The erection of six dwellings in this location will boost housing supply and bring considerable economic benefits through construction. Having regard to WMS, these benefits are considered to outweigh the requirement for an affordable housing contribution.

The proposal to provide six dwellings would not need a Section 106 agreement for the provision of an affordable housing contribution in this instance. The proposal will still be liable for CIL.

6.5.6

## 6.6 Other matters

6.1 It is recognised that since the 2012 appeal decision, the SAMDev Plan has become part of the local development plan. The previous appeal decision had regard to the NPPF and the Shropshire Council Core Strategy which are unchanged in as far as relevant aspirations and policies are concerned.

6.2 In relation to this application, policies of the SAMDev Plan are taken into account as part of the development plan. Nevertheless, it is not considered that they weigh against the Inspector's views in the previous appeal which are a significant material consideration. In particular, MD2 (Sustainable Design) will be more relevant at the reserved matters stage.

## 7.0 CONCLUSION

7.1 Overall, it is considered that the indicative plans demonstrate that six small dwellings can be constructed whilst still maintaining amenity for occupiers and neighbouring residents. There is no conflict with the character of the Meole Brace Conservation Area and Highways have raised no objections to traffic and parking issues. The indicative scheme is considered to accord with the NPPF, CS2, CS6, CS17, MD13. Planning permission is recommended

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

② 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.

② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of

defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

PREAPP/10/00602 Erection of 5 residential dwellings and conversion of existing industrial building into a further 3 residential dwellings REC  
 10/03606/OUT Outline application for the erection of 6 no.semi-detached dwellings to include access REFUSE 28th September 2010  
 11/04364/OUT Outline (access) application for the erection of 6 no.semi-detached dwellings REFUSE 9th March 2012  
 12/04866/OUT Outline application for the erection of 6no. semi-detached dwellings to include access GRANT 19th August 2013  
 16/01651/OUT Outline application for residential development to include access PCO  
 SA/86/1167 Erection of a new detached single storey pitched roof replacement workshop, store and office to be used in connection with existing builders business and yard. PERCON 15th January 1987  
 SA/89/0820 Erection of builders workshop/store (amendment to previously approved workshop/store to extend approved building by 1.200m). PERCON 25th October 1989

### Appeal

12/01966/REF Outline (access) application for the erection of 6 no.semi-detached dwellings DISMIS 26th October 2012

## 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)

Cabinet Member (Portfolio Holder)  
Cllr M. Price

Local Member

Cllr Nic Laurens

Appendices  
APPENDIX 1 - Conditions

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

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the 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 be begun 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.

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

4. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agencies Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in

accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and Neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

Reason: To ensure the site is safe for residential use

5. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

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

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o Construction traffic management plan, to control and manage all vehicular activity associated with the development to & from the site, along the local highway network.

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

7. The Surface Water Management Plan state that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept

soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted and approved by the Local Planning Authority prior to the commencement of works

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

The Highway Authority will accept surface water drainage from the adopted road to discharge into soakaways provided the percolation tests show that the ground is suitable for soakaways. Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

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

8. The development hereby permitted shall not be brought into use until the car parking, turning and passing areas shown on the approved plans has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

9. Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) a visibility splay measuring 2.4 x43 metres to the nearside carriageway edge shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

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

10. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slopes towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access/ driveway runs onto the highway.

11. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

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More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

Reason: To ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces.

12. Construction work shall not take place and construction traffic shall not access the site outside the hours of 0800-1730 on weekdays and 0800-1300 Saturdays, and not at all on Sundays or Bank Holidays.

Reason: To protect the amenity of the area

### Informatives

#### 1. No drainage to discharge to highway

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

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- o construct any means of access over the publicly maintained highway (footway or verge) or
- o carry out any works within the publicly maintained highway, or
- o authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- o undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

Extraordinary maintenance

The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.

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#### Water Butts

Rainwater harvesting system

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

#### Attenuation

Greywater recycling system

Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

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Accordingly, It is recommended that consideration is given to the installation of sprinkler systems within the residential properties that conform to the 'BS 9251:2005 - Sprinkler Systems for Residential and Domestic Occupancies - Code of Practice' published by the British Standards Institute.

Further guidance on residential sprinkler systems can be obtained by contacting the British Automatic Sprinkler Association Ltd on 01353 659187 or their web site [www.basa.org.uk](http://www.basa.org.uk)

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Committee and date  
 Central Planning Committee  
 29 September 2016

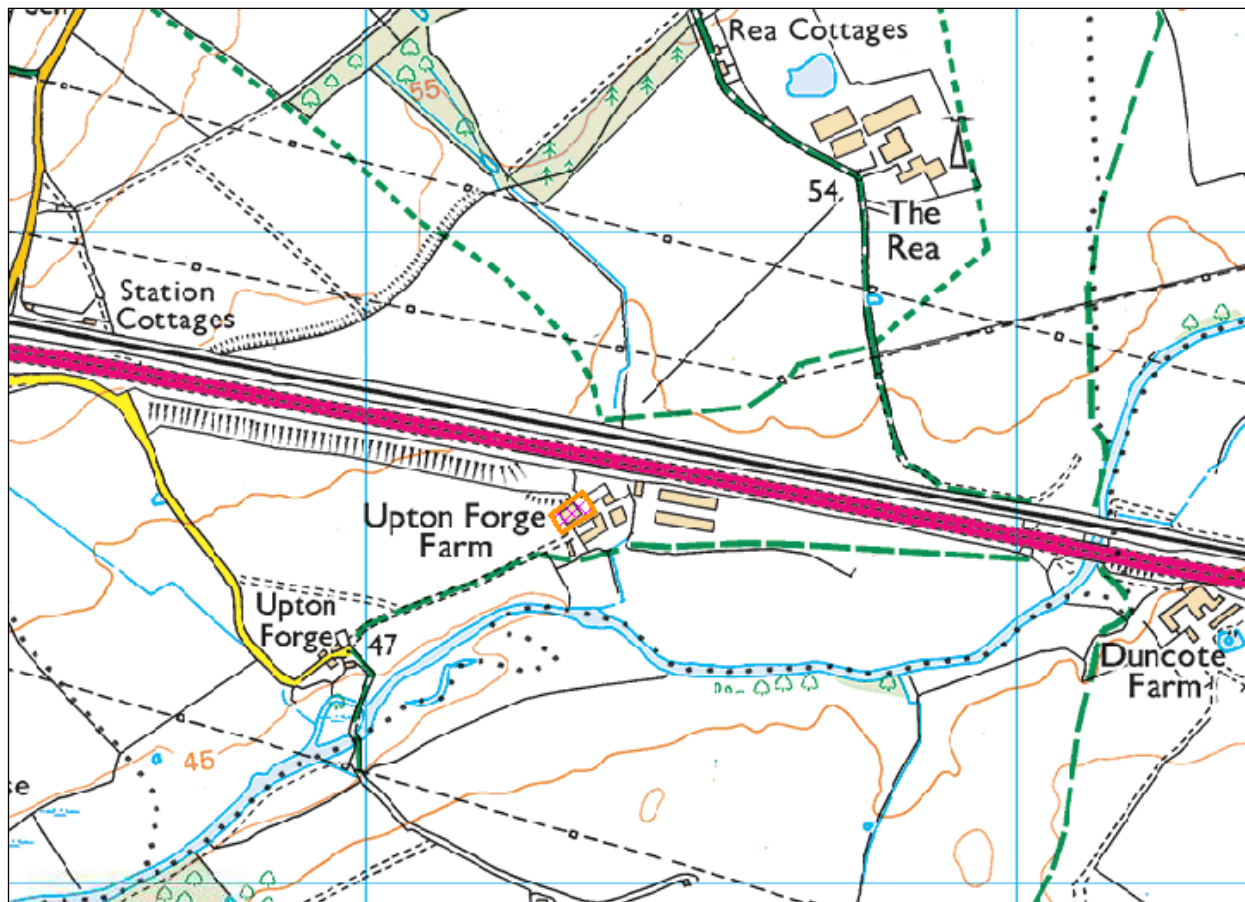
Item  
**8**  
 Public

## 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>Application Number:</b> 16/03371/FUL	<b>Parish:</b>	Upton Magna
<b>Proposal:</b> Erection of grain storage building to include biomass boiler and woodchip storage		
<b>Site Address:</b> Forge Farm Upton Magna Shrewsbury Shropshire SY4 4UD		
<b>Applicant:</b> Forge Farm Poultry Ltd		
<b>Case Officer:</b> Mared Rees	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	
<b>Grid Ref:</b> 356323 - 311512		



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and to no outstanding objections from SC Public Protection or Highways.**

<b>1.0</b>	<b>THE PROPOSAL</b>
1.1	This application seeks full planning permission for the erection of an agricultural building.
1.2	The building would provide storage for grain and would include a biomass boiler and woodchip storage.
1.3	Maximum dimensions would measure 42m (depth) x 24m (width) x 10.5m (height).
1.4	Materials would comprise concrete panels and profile sheeting for the walls and profile sheeting for the roof. Roof lights would be incorporated.
<b>2.0</b>	<b>SITE LOCATION/DESCRIPTION</b>
2.1	The application site is located in designated open countryside as delineated on Policy Map S16 Shrewsbury Place Plan Area.
<b>3.0</b>	<b>REASON FOR DELEGATED DETERMINATION OF APPLICATION</b>
3.1	The proposed development is considered to accord with the requirements of the Councils relevant adopted policies. The Parish Council have raised objections to the proposal and discussions between Chair and Vice Chair of Central Planning Committee as well as the head of Development Management have indicated that the application will be determined by Committee under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.
<b>4.0</b>	<b>COMMUNITY REPRESENTATIONS</b>
<b>4.1</b>	<b>- Consultee Comments</b>
	<b>SC Public Protection – Additional information required.</b> Grain drying facilities have the ability to generate noise impacts historically, therefore a Noise Assessment will be required prior to determination of the application.
	<b>Highway Authority – No formal comments received at the time of writing.</b> A verbal update will be provided during Committee.
	<b>Shropshire Fire Service – No objection.</b>
	<b>SC Drainage – No objection.</b>

	No objections are raised subject to a condition to secure a surface water drainage scheme.
	<b>Upton Magna Parish Council – Neither object to or support the application.</b> <i>‘This application raises serious concerns about the inevitable increase in traffic along the Pelham Road. It is estimated that there is the potential for several hundred extra HGV vehicle movements and these, added to the number that could be generated by the anticipated new poultry units at the Rea Farm, will raise the total to what the Parish Council deems to be a dangerous level. It is noted that there is no transport statement with the application and the Parish Council recommends that one is compiled. In addition, although it is appreciated that the Planning Authority is not required to consult with the neighbours of Forge Farm, the Parish Council has received several expressions of concern about the increase in noise, light pollution and HGV traffic on the road to the farm (both during the day and at night) which will occur. These issues do not appear to have been addressed in the application and, until such time as they are and a traffic statement has been compiled, the Parish Council cannot support the application.’</i>
<b>4.2</b>	<b>- Public Comments</b>
	No representations received at the time of writing.
<b>5.0</b>	<b>THE MAIN ISSUES</b>
	<b>Principle of development</b> <b>Character and Appearance</b> <b>Residential Amenity</b> <b>Highway Safety</b> <b>Drainage</b>
<b>6.0</b>	<b>OFFICER APPRAISAL</b>
<b>6.1</b>	<b>Principle of development</b>
6.1.1	The application site is located within designated open countryside as identified on Policy Map S16 Shrewsbury Place Plan Area.
6.1.2	Paragraph 28 of the NPPF states that the development and diversification of agricultural and land based rural businesses should be promoted.
6.1.3	The proposal is for the erection of an agricultural building to, to which Policy CS5 of the Core Strategy allows.
6.1.4	SAMDev Policy MD7b supports this stating that proposals for new agricultural development will need to demonstrate that the size and scale is consistent with the agricultural enterprise, the design and layout is appropriate and that there would be no environmental or residential harm as a result.
6.1.5	The land at Forge Farm extends to approximately 87 hectares, however in total, approximately 1,214 hectares of arable land is farmed.
6.1.6	Additional information received from the agent on 06 <sup>th</sup> September, states that the

	applicant produces approximately 5,200 tonnes of grain annually, all of which is grown locally at Upton Magna.
6.1.7	The grain is sold to Grainlink and Lloyds Animal Feeds.
6.1.8	The grain is currently stored at Grange Farm in Upton Magna, which is rented by the applicant.
6.1.9	The current storage availability at Grain Farm is 2,800 tonnes. The remaining 2,400 tonnes is sold direct off the combine in August.
6.1.10	The provision of a new building on Forge Farm, which is owner occupied, would provide more control for the applicant, as well as long term storage and drying facilities, given the applicant would no longer be required to sell the grain straight off the combine in August.
6.1.11	This is stated would help to increase profits for the applicant given the grain can be sold later in the year when prices are higher.
6.1.12	Furthermore, the existing grain storage at Grange Farm is relatively old, which would result in investment being required to ensure it meets ACCS Standards.
6.1.13	The information submitted demonstrates that the size of the building is required relative to the size of the agricultural enterprise and amount of grain produced.
6.1.14	The principle of development is considered to be acceptable and the proposal would comply with Core Strategy Policy CS5 and SAMDev Policy MD7b.
<b>6.2</b>	<b>Character and appearance</b>
6.2.1	The building would be located on the site of a recently demolished building, therefore a new building on this site has previously been established.
6.2.2	The scale of the building although considered to be significant, is not considered would be over dominant in the context of the scale of the existing buildings on the site.
6.3.3	Its layout is considered would be logical to the existing context and would not appear out of place in relation to its proximity to the existing building complex.
6.2.4	The building would be typically agricultural in its appearance and would not appear as an incongruous feature in this countryside location.
6.2.5	The building is considered would be well screened from the A5 which runs north of the site, given it would be sited on a lower land level and an existing tree line boundary running along the northern boundary of the site would help to screen the building from these views.

6.2.6	Overall, the design and layout of the building is not considered would adversely impact on existing visual amenities of the area and the proposal would accord with Policies CS5 and CS6 of the Core Strategy and Policy MD2 of the SAMDev.
<b>6.3</b>	<b>Residential Amenity</b>
6.3.1	The proposal would be sited on the same footprint as a previously demolished building.
6.3.2	SC Public Protection has requested the submission of a Noise Assessment, given historically, grain drying facilities have the ability to generate noise impacts and the proposal would be sited approximately 300m south west of the nearest residential properties.
<b>6.4</b>	<b>Highway Safety</b>
6.4.1	Highway Authority requested additional information on 20 <sup>th</sup> September, in regards to the overall traffic impact of the proposal.
6.4.2	A verbal update will be provided in Committee.
<b>6.5</b>	<b>SC Drainage</b>
6.5.1	SC Drainage raise no objection.
<b>7.0</b>	<b>CONCLUSION</b>
7.1	Overall, the principle of development is considered to be acceptable and the impact of the building on existing and proposed levels of visual amenity is considered to be appropriate.
	SC Public Protection will provide formal comments once the results of the Noise Assessment has been submitted.
7.1.3	A verbal update in regards to the schemes impact on highway safety will be provided at Committee.
7.1.4	The proposal would comply with the above mentioned policies in the Core Strategy and SAMDev.
<b>8.0</b>	<b>Risk Assessment and Opportunities Appraisal</b>
<b>8.1</b>	<b>Risk Management</b>
	There are two principal risks associated with this recommendation as follows: <ul style="list-style-type: none"> <li>☐ 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</li> </ul>

	<p>be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.</p> <p>☐ 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.</p> <p>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.</p>
<b>8.2</b>	<b>Human Rights</b>
	<p>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.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
<b>8.3</b>	<b>Equalities</b>
	<p>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.</p>
<b>9.0</b>	<b>Financial Implications</b>
	<p>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.</p>

## 10. Background



## Relevant Planning Policies

**Central Government Guidance:**  
**NPPF**

**Core Strategy and Saved Policies:**  
**CS5, CS6, CS17**

**SAMDev:**  
**MD2, MD7b, S16**

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

11/04954/EIA Erection of one poultry unit with control room, two feed bins, construction of concrete hardstanding area and associated works GRANT 29th February 2012

12/01354/DIS Discharge of Condition 4 (Landscape Scheme), 5 (Archaeological Mitigation Strategy), 6 (Badger Mitigation Plan) and 7 (Lighting Plan) attached to planning reference 11/04954/EIA - Erection of one poultry unit with control room, two feed bins, construction of concrete hardstanding area and associated works DISAPP 21st May 2012

16/03371/FUL Erection of grain storage building to include biomass boiler and woodchip storage PDE

16/04030/SCO Request for Scoping opinion: Proposed poultry Units PCO

SC/MS1990/1004/SY Disposal of surplus highway materials from A5/A49 By-pass PERMIT 30th October 1990

SA/90/1004 Disposal of surplus natural subsoils arising from excavations for the construction of the A5/A49 Link Road. PERCON 30th October 1990

## 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)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr John Overall

Appendices

APPENDIX 1 - Conditions

**APPENDIX 1**

**Conditions**

**STANDARD CONDITION(S)**

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

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

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

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<u>Committee and date</u>
Central Planning Committee
29 September 2016

<u>Item</u>
<b>9</b>
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

<b>LPA reference</b>	15/03389/DIS106
<b>Appeal against</b>	Appeal Against Non Determination
<b>Appellant</b>	Mrs A Mumford
<b>Proposal</b>	Proposed discharge of S106 Agreement which restricts the occupancy of the dwelling to an affordable dwelling relating to planning permission 1/07/19556/F Erection of an affordable dwelling (delegated matter)
<b>Location</b>	Yew Tree Cottage Bentlawnt Shrewsbury
<b>Date of application</b>	30.06.2015
<b>Officer recommendation</b>	Non Determination
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	
<b>Date of appeal</b>	26.01.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	09.08.2016
<b>Date of appeal decision</b>	17.08.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>ALLOWED – COSTS ALLOWED</b>
<b>Details</b>	

<b>LPA reference</b>	15/02804/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs P & L Wheeler
<b>Proposal</b>	Outline application for erection of a single dwelling (all matters reserved except for access)
<b>Location</b>	Land Adjacent Jessamine Cottage Kenley Shrewsbury
<b>Date of application</b>	30.06.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	01.10.2015
<b>Date of appeal</b>	03.03.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	13.06.2016
<b>Date of appeal decision</b>	18.08.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	15/04208/PMBPA
<b>Appeal against</b>	Refused Prior Approval of Permitted Development
<b>Appellant</b>	Mr Gaskell
<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>	Terrace Farm Cruckton Shrewsbury
<b>Date of application</b>	28.09.2015
<b>Officer recommendation</b>	Planning Permission Required
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	23.11.2015
<b>Date of appeal</b>	06.04.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	23.08.2016
<b>Date of appeal decision</b>	02.09.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/05655/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	GH Davies Farms Ltd
<b>Proposal</b>	Outline application (access for approval) for the erection of up to 35 dwellings
<b>Location</b>	Land To The North Of New Pulley Lane Bayston Hill Shrewsbury
<b>Date of application</b>	18.12.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	21.09.2015
<b>Date of appeal</b>	21.03.2016
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	26.07.2016
<b>Date of appeal decision</b>	02.09.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED – COSTS REFUSED</b>
<b>Details</b>	

<b>LPA reference</b>	16/00458/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	CSE (Shropshire) Ltd
<b>Proposal</b>	Erection of detached bungalow following demolition of garaging, porch and dining room of existing dwelling
<b>Location</b>	Proposed Dwelling Adjacent Circassian Preston Gubbals Road Bomere Heath Shrewsbury
<b>Date of application</b>	04.02.2016
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	25.04.2016
<b>Date of appeal</b>	11.06.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	30.08.2016
<b>Date of appeal decision</b>	01.09.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED – COSTS REFUSED</b>
<b>Details</b>	

<b>LPA reference</b>	15/04036/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr Roger Perks
<b>Proposal</b>	Erection of one dwelling and formation of vehicular access following demolition of existing commercial garage/workshop building
<b>Location</b>	Land Opposite Hill View Pontesford Hill Pontesbury Shrewsbury
<b>Date of application</b>	17.09.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	23.12.2015
<b>Date of appeal</b>	05.05.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	23.08.2016
<b>Date of appeal decision</b>	07.09.2016
<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>	23.08.2016
<b>Date of appeal decision</b>	02.09.2016
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>
<b>Details</b>	



<b>LPA reference</b>	16/01524/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Tobin Aspinall
<b>Proposal</b>	Application under Section 73a of the Town and Country Planning Act 1990 for the erection of a boundary fence
<b>Location</b>	Willow Ridge Hexham Way Shrewsbury
<b>Date of application</b>	11.04.2016
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	29.06.2016
<b>Date of appeal</b>	29.07.2016
<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>	15/01152/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Sansaw Ltd
<b>Proposal</b>	Outline application (all matters reserved) for residential development, convenience store and public open space
<b>Location</b>	Proposed Development Land At Redhill Shrewsbury
<b>Date of application</b>	13.03.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	03.05.2016
<b>Date of appeal</b>	16.08.2016
<b>Appeal method</b>	Written Representations
<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>	16/02091/PMBPA
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mrs Lucy Pulford
<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>	Ruckley Barn Acton Burnell Shrewsbury
<b>Date of application</b>	13.05.2016
<b>Officer recommendation</b>	Planning Permission Required
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	08.07.2016
<b>Date of appeal</b>	16.08.2016
<b>Appeal method</b>	Written Representations
<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>	15/05027/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs J Kwaterski
<b>Proposal</b>	Erection of a five bedroom dwelling and detached garage following demolition of existing dwelling and garage.
<b>Location</b>	Spring Cottage Lyth Hill Shrewsbury
<b>Date of application</b>	24.11.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	25.01.2016
<b>Date of appeal</b>	22.07.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

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## Appeal Decision

Site visit made on 9 August 2016

**by Jonathan Bore MRTPI**

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

**Decision date: 17 August 2016**

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**Appeal Ref: APP/L3245/Q/16/3143661**

**Yew Tree Cottage, Bentlawnt, Minsterley, Shropshire SY5 0ES**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a failure to determine that a planning obligation should be discharged.
  - The appeal is made by Mrs A J Mumford against Shropshire Council.
  - The development to which the planning obligation relates is the erection of an affordable dwelling.
  - The planning obligation, dated 4 February 2008 and subject to deed of variation dated 6 February 2009, was made between South Shropshire District Council and Carl Edward Millington.
  - The application Ref 15/03389/DIS is dated 26 June 2015.
  - The application sought to have the planning obligation discharged.
- 

### Decision

1. The appeal is allowed. The planning obligation, dated 4 February 2008, made between South Shropshire District Council and Carl Edward Millington, no longer serves a useful purpose and is discharged.

### Application for costs

2. An application for costs was made by Mrs A J Mumford against Shropshire Council. This application is the subject of a separate decision.

### Main Issue

3. The main issue is whether the planning obligation is required for the continued maintenance of an affordable dwelling in this location.

### Reasons

4. Yew Tree Cottage was granted permission as an affordable dwelling at a time when the site was within South Shropshire District Council. Policy SDS3 of the South Shropshire District Local Plan 2002-2011 strictly controlled the development of open market housing, restricting it to certain urban areas and settlements, but Policy SDS7 of the same plan allowed for affordable housing throughout the district. A market dwelling would not have been permissible here, but the dwelling was granted planning permission as an affordable dwelling in accordance with Policy SDS7. The accompanying s106 planning obligation which is the subject of this appeal contained various mechanisms to ensure that, were the house to be sold, its price would be maintained at an affordable level below market rates.

5. The prevailing policy has changed. Bentlawnt is within the administrative area of Shropshire Council; market housing is now permitted in the village under Policy CS4 of the Council's Core Strategy because it is within a "Community Cluster" designated by Policy MD1 and Schedule MD1.1 of the adopted Site Allocations and Management of Development Plan (SAMDev Plan). A number of planning permissions have been granted for small scale market housing in this particular community cluster. The site is within the village and is surrounded by development and it is clear that a planning application today for a market dwelling on this site would be in accordance with planning policy.
6. It is not in dispute that there is a continued need for affordable housing in Shropshire. Policy CS11 of the Council's Core Strategy Policy and Policy MD7a of the SAMDev Plan explain how it is to be delivered: through open market housing development and what are termed 'exception schemes'. The dwelling was not constructed as an open market housing scheme with a quota of affordable housing, nor is it a rural exception site. The latter are defined by the National Planning Policy Framework as small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Whether or not it could have been considered a rural exception site when it was granted permission, it would certainly not be a rural exception site now, given that open market housing would be acceptable here.
7. The fact that planning policy has changed to allow market housing is an important material consideration and is a clear indication of changed priorities towards housing mix in this particular location. Even though the dwelling is in existence and is subject to restrictions that currently retain it as a unit of affordable housing, it would be wrong to disregard the current development plan policy framework. In effect the scheme would create a new unit of unrestricted market housing which is allowed for by Policy CS4. Were a proposal to come forward now for a dwelling on the site it would be unnecessary and unreasonable to require a restrictive planning obligation of the sort currently applied to the dwelling. It would be inappropriate and inequitable to single out this particular dwelling for continuing restriction when others may be built nearby without such restriction and indeed where an unrestricted dwelling could be built if the site had remained in the condition it was before the 2008 planning permission.
8. In the circumstances the obligation is not required for the continued maintenance of an affordable dwelling in this location.
9. The Council are concerned about the precedent set by this proposal, but the change in policy will only affect a proportion of dwellings subject to similar obligations since many of these dwellings remain outside the built up areas where planning permission would still not be granted for market housing. It is also the case that the former South Shropshire policy regime was not common to the whole of the County so the issue is only applicable to part of Shropshire.
10. I have considered all the other matters raised but they do not alter the balance of my conclusions. For all the above reasons, the appeal is allowed.

*Jonathan Bore*

INSPECTOR

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## Costs Decision

Site visit made on 9 August 2016

by **Jonathan Bore MRTPI**

**Decision date: 17 August 2016**

---

**Costs application in relation to Appeal Ref: APP/L3245/Q/16/3143661  
Yew Tree Cottage, Bentlawnt, Minsterley, Shrewsbury, Shropshire SY5 0ES**

- 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 Mrs A J Mumford for a full award of costs against Shropshire Council.
  - The appeal was against a failure to determine an application under Section 106A of the Town and Country Planning Act 1990 that a planning obligation should be discharged.
- 

### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The applicant and her agent received poor service from the Council at the application stage, including difficulty in finding out how the application should be submitted, a late and inaccurate validation letter, and the absence of any Council contact thereafter despite four written communications from the appellant's agent. There appears to have been little proper input from the local planning authority at any stage of the application process. The consultation response from SC Affordable Homes was several months late and considered the application simply from the point of view of the housing officer. There is no evidence that the local planning authority carried out its own evaluation of the proposal against the policies of the development plan or considered the proposal in a balanced manner. As for the appeal, the local planning authority referred to the consultation response from SC Affordable Homes and made a general reference to the housing waiting list, but offered very little evidence to support its own position and did not properly evaluate the proposal against the development plan; this was unreasonable, particularly since the development plan context had changed.
3. The Council's behaviour has been unreasonable throughout the life of the application and the appeal. My conclusions on the merits of the application are set out in my appeal decision and the prevailing planning policy indicates clearly that the obligation should be discharged. The scheme should not have needed to come to appeal; the Council's unreasonable behaviour has led the appellant to incur unnecessary costs.

**Costs Order [where awarding costs]**

4. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Mrs A J Mumford, the costs of the appeal proceedings described in the heading of this decision.
5. The applicant is now invited to submit to Shropshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Jonathan Bore*

INSPECTOR

## Appeal Decision

Site visit made on 13 June 2016

**by Mandy Lewis BA (Hons) DipTP MRTPI**

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

**Decision date: 18 August 2016**

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**Appeal Ref: APP/L3245/W/16/3145822**

**Jessamine Cottage, School junction southwest of Hughley to New House Farm junction Hughley, Shrewsbury SY5 6NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs P & L Wheeler against the decision of Shropshire Council.
  - The application Ref 15/02804/OUT, dated 29 June 2015, was refused by notice dated 1 October 2015.
  - The development proposed is a single dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The planning application is outline with all matters, apart from access reserved for later consideration. I have dealt with the appeal on this basis. However, the application was accompanied by a plan number SA16664/01 which showed a layout for 1 bungalow and a garage to which I have had regard. Although, I have treated this for illustrative purposes only.
3. The Site Allocations and Management of Development Plan was adopted on 17 December 2015 following the refusal of the planning application and prior to the submission of this appeal. The appeal has been considered against the newly adopted plan, and the existing Core Strategy adopted 11 March 2011.

### Main Issue

4. The main issue in this appeal is whether the proposed dwelling can be justified having regard to development plan policies for development in the countryside.

### Reasons

5. The appeal site consists of an area of land to the east of Jessamine Cottage. The area is currently used as part of a show garden with an ancillary plant nursery, market garden, shop and tearoom. The café and shop are proposed to be demolished to be replaced by the proposed bungalow.
6. The appeal site is part of the dispersed settlement of Kenley. The other villages of Church Preen and Hughley are nearby. The development through the village is ribbon like, along the winding rural lanes and is commonly set

back and well screened. The village has a Church and a village hall and is close to a primary school but there are no other services and no access to public transport.

*Whether the proposed dwelling can be justified having regard to development plan policies for development in the countryside*

7. The appeal site is not situated in any of the Hubs or Clusters as referred to in Policy CS4 of the adopted Shropshire Core Strategy and defined in Policy MD1 of the Site Allocations and Management Development Plan (SAMDev) which was adopted on the 17 December 2015. It is considered that the appeal site is within open countryside.
8. With regards to the management of housing outside hubs or clusters Policy MD3 of SAMDev seeks to compliment the delivery of the SAMDev settlement Policies S1 to S18 and the approach to the delivery of housing set out in the Core Strategy, underpinned by Policy CS1. Paragraph 3.18 of Policy MD3 of SAMDev explains that windfall housing can come forward in the countryside, if the proposal has regard to the housing and countryside policies of the Core Strategy and SAMDev.
9. Policy CS5 of the Core Strategy and Policy MD7a of SAMDev seeks to strictly control open market housing in the countryside, supporting development in the identified hubs, clusters and market towns. The policies are permissive with regard to affordable housing for local needs, dwellings for agricultural, forestry and other essential workers.
10. The development is not for any special housing needs specifically identified in the Local Plan policies. However, the appellant states that the proposed bungalow will be designed for adaption to later life needs and this supports the Government Social Care policy that enable the elderly to remain in their community.
11. I acknowledge that Planning Practice Guidance paragraph 37 states that in decision taking evidence for development proposals for accessible and manageable homes specifically for older people will free up under occupied local housing for other population groups and is likely to demonstrate a market need that supports the approval of such homes. I also note that Core Strategy Policy CS11 and the Type and Affordability of Housing Supplementary Planning Document (SPD) address the need for provision for the elderly in the Borough.
12. Paragraph 5.11 of the SPD sets out a specific test to help evidence housing need. The appellant has submitted no substantive evidence to meet that test. Furthermore, no mechanism such as a completed obligation or agreement is before me which would enable the secure delivery of the proposal to specifically meet elder person housing need both now and in the future. Without such a mechanism I cannot therefore be certain that the proposal would result in anything other than the provision of an open market dwelling which would directly conflict with the housing delivery aims of the Core Strategy and SAMDev.
13. The proposed open market house in the countryside location, outside of a recognised community hub or cluster conflicts with Policies CS1 CS4, CS5, CS6 and CS 11 of the Shropshire Core Strategy and Policies MD3 and MD7a of the Site Allocations and Development Management Plan.



14. The appellant states that the Council cannot demonstrate a 5 year housing land supply. If this were the case then paragraph 49 of the National Planning Policy Framework (Framework) is relevant and paragraph 14 of the Framework would be engaged. The appellant considers the appeal site is not isolated and the development would deliver economic, environmental and social benefits as set out in paragraph 14.
15. I acknowledge that the appeal site may be in one of the more densely clustered parts of Kenley, known as Kenley Common. However, the appeal site is 4.5 miles from the market town of Much Wenlock which is the closest location which offers a range of retail and leisure services. Whilst paragraph 55 of the National Planning Policy Framework supports that groups of smaller settlements may support services in a village nearby that should be balanced against the avoidance of creating isolated homes in the countryside.
16. I note that in the previous appeal, reference APP/L3245/H/15/3000886, the Inspector felt the appeal site had an isolated feel. I acknowledge that there is some development close by to the appeal site but it is significantly screened which adds to an appearance of an isolated site. To my mind the term isolation also relates to a home, which in planning terms would be remote from day to day services. I acknowledge that there is a school and nearby primary school, however every other service or facility that may be required lies outside of the village.
17. During my visit to the appeal site I walked along the surrounding lanes and visited other developments nearby. I noted that the winding rural lanes were largely free from pavements and unlit. I did walk along some grass verges when available but in my opinion the use of grass verges for a pedestrian to safely move around are not a suitable replacement for a more easily accessible pavement. The winding and sometimes steep and narrow rural lane would also be challenging for many cyclists. I consider this would realistically limit the option of cycling to reach necessary daily services to very confident and experienced cyclists. Furthermore I note that it is 3 miles from the appeal site to access regular bus service between Shrewsbury and Bridgnorth.
18. I note that the appellant considers that the rural dwellers make less unnecessary car journeys and that rural car use is more efficient resulting in less harmful emissions being generated. I also acknowledge that the role of the internet has changed shopping habits; however, an internet order necessitates a delivery which still represents vehicular use.
19. I acknowledge the lawful development certificate which has been issued since the previous appeal is a material change in the circumstances. The café and shop use is an established use which would attract visitors who would be mainly dependant on private car use to travel to the site. However the shop and café are small in scale and open sporadically. I noted during my visit there was a small area given over to car parking which indicated there would only be a limited number of visitors at any one time. The proposed house would create a development whose occupants would be likely to generate far more regular car journeys to access services than occasional visitors to the café or shop.
20. Regardless of the differences between urban and rural car use, the future occupier would be dependant on the private car and this proposal would result in the creation of a home with such limited choices in transport to access day to day services that I conclude in planning terms it would be isolated.

21. With regard to the three dimensions of sustainable development. The development would generate a very modest economic benefit from the construction of the proposal and the future expenditure of the occupants using local services, in market towns such as Much Wenlock. The development would also generate a modest social benefit as it may allow the donor house to be occupied by a family who could attend the local school and there would be increase Council Tax levy.
22. I would agree with the appellant that in terms of ecology, infrastructure and visual appearance the proposal would have a neutral environmental effect. In this regard the proposal is also compliant with the overall aims of Policy CS17 with regard to ecological and visual function of the site. However, with regard to transport, the proposal would be almost entirely reliant on the use of a private car which, regardless of the behaviour of the driver, would not help improve pollution, adapt to climate change or move towards a low carbon economy.
23. The proposal would therefore not create an environmental benefit and would create an isolated home and therefore the proposal would not constitute sustainable development.
24. The appellant has made reference to a variety of decisions made by the Council to highlight inconsistency in determining what constitutes sustainable development. These decisions are material considerations. I note that all the decision referred to by the appellant were all determined prior to the adoption of SAMDev.
25. The decisions at Kenley Hall and Old Hall Barn were applications for Prior Approval for a Change of Use from an agricultural use to a residential use. As such the Council would not have had the opportunity to determine the proposals using local plan policies as a prior notification proposal already has the principle of planning permission approved.
26. The development at Land North of New House met the relevant criteria for a single plot exception site and therefore met the policy requirement at the time of determination.
27. Both the developments at Mapp Farm and Maypole Bank involved the conversion of existing rural buildings and I do not consider they are an appropriate comparison to the proposal for a newly constructed dwelling as there are different policy tests.
28. The developments at Lower Wigmore Farm and west of Mulberry House were both for open market newly constructed dwellings which are more similar to the appeal proposal than the previous decisions. However, both sites, although in open countryside were considered to have access to public transport. The Lower Wigmore Farm site was also considered to have access to a basic level of service provision, including a shop, café, small number of business and a public house. The Mulberry House site was 1.8km from a nearby village with a greater range of services. These decisions are significantly different in terms of the provision of public transport close to the appeal site which offers a realistic alternative to the use of the private car and a much closer proximity to a wide range of services.

### **Other matters**

29. A unilateral undertaking facilitating a financial contribution towards affordable housing provision has been agreed by the Council and the appellant.
30. On the 11 May 2016 the Court of Appeal overturned the previous High Court judgement and the policies from the Written Ministerial Statement of 28 November 2014 can once again be considered as national planning policy.
31. Even if I were to agree with the appellant that the Council could not demonstrate a 5 year supply of housing land, in light of my findings above on sustainability considerations, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. As such the WMS defines that contributions cannot be sought from residential developments of less than 10 units; the contribution for affordable housing can no longer be required. I have not therefore taken it into account in my decision.

**Conclusion**

33. For the reasons set out above I find the development conflicts with the relevant Policies in the Shropshire Core Strategy and Site Allocations and Development Management Plan and does not constitute sustainable development and having taken all matters into consideration, I conclude the appeal should be dismissed.

*Mandy Lewis*

INSPECTOR

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## Appeal Decision

Site visit made on 23 August 2016

by **David Murray BA (Hons) DMS MRTPI**

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

Decision date: 2 September 2016

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**Appeal Ref: APP/L3245/W/16/3147786**

**Terrace Farm, Cruckton, Shrewsbury, Shropshire, SY5 8PR.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant approval required under a development order.
  - The appeal is made by Mr A Gaskell against the decision of Shropshire Council.
  - The application Ref. 15/04208/PMBPA, dated 11 September 2015, was refused by notice dated 23 November 2015.
  - The development proposed is the change of use of an agricultural building to residential use.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the Council's refusal of the prior approval notification was sound.

### Reasons

#### *Background*

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) sets out the classes of development that can be undertaken as 'permitted development' without further express consent. Schedule 2, Part 3 deals with permitted changes of use and Class 'Q' (a) allows the change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouse). Further, Class 'Q' (b) also permits building operations reasonably required to convert the building to residential use.
4. Part Q.1 of the Order sets out where such development is not permitted, and part Q.2 specifies conditions which include (1) a prior notification procedure and the specific aspects to be considered.
5. In this case the Council does not take issue with any of these aspects and does not indicate that prior approval is required on this basis, but the Council takes issue with the nature of the proposed conversion and whether the extent of buildings operations exceed what is reasonably required to convert an agricultural building. It is also disputed that the building was solely in agricultural use at the time that the application was made.

### *The proposal*

6. The existing building is a large portal barn lying on the edge of a group of farm buildings. It has a steel frame with elevations mostly clad in single ply corrugated metal sheets on the lower part and the upper part is timber boarding fitted with gaps between the slats for ventilation. The roof is also of corrugated sheeting with roof lights. There are no windows in the building but there is a large cart door on one elevation and a smaller entrance door on another. It is proposed to convert the building to a dwelling with two levels of accommodation inside. The ground floor would contain a living room/kitchen/dining area; storage room; lounge; office; wash room and utility room; while on the upper floor there would four bedrooms and a bathroom.

### *Assessment*

7. The national Planning Practice Guidance says (in paragraph 13-105-20150305) that the GPDO "recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted." Details of changes that are reasonably necessary are then listed. But the PPG goes on to say 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."
8. The appellant's agent says that the conversion of the building will utilise the steel frame structure and make use of the metal sheet cladding where suitable for reuse. However, I note that the scheme involves the construction of new block walls at ground and first floor level on all four elevations of the building and that the existing timber boarding is shown to be replaced by new blockwork with an external cladding of corrugated metal. The whole of the existing roof is also proposed to be replaced with a new external material.
9. The appellant's agent says that the new blockwork walls are internal works which do not constitute development by virtue of s55(2)(a) of the Act. However, the submitted plans show new blockwork walls being formed around and between the vertical metal 'I' columns on each outside wall of the building. Even though this structure may have external lightweight cladding added, as a matter of fact and degree I find that these blockwork walls are external walls and not internal works such as those associated with the internal subdivision of the building.
10. It therefore appears to me that in order to make the building structurally sound for residential conversion, the existing external fabric of the building would have to be extensively replaced by new materials and have significant permanent structural support added to it.
11. In addition, I also have concerns whether the main steel frame comprising the external works of the building is capable of supporting a first floor throughout and the plans do not show how this would be achieved nor is there any proper structural assessment provided to show that the existing steel frame is strong enough to take the loading as mentioned in the PPG.

12. Overall, I conclude that the scale of building operations proposed and required to convert the building greatly exceed what is 'reasonably necessary' and would not result in a form of conversion as envisaged in the PPG.
13. The appellant's agents refers to two appeal decisions where it is said that significant building operations were allowed as part of a Class Q conversion scheme but from my reading of these cases, as detailed and specific matters of fact and degree, the inspectors weighed up the nature and scale of the work in relation to the test set out in the national guidance and reached a considered judgement. From the information set out in the decisions it does not appear to me that that the degree of structural change and additional work was similar to that proposed in this case.
14. The Council also raises concern as to whether the building was solely used for agricultural use within an established agricultural unit and makes reference to the building containing a touring caravan and a car at the time of the officer visit at application stage in October 2015. The appellant's agents states that the building is in use for the storage of agricultural products and farm machinery. At the time of my visit, the building contained a tractor, bales of hay, loose hay and various pieces of agricultural machinery. On the evidence submitted and my own observations I am satisfied that the building was in agricultural use as part of an established agricultural unit on the 23 March 2013 as specified in the GPDO, and at the time of the application, and the occasional storage of a car and touring caravan within the building do not result in clear evidence of a materially different use.

### **Conclusions**

15. For the reasons given above I conclude that the Council's refusal to permit the proposed conversion as complying with the requirements of Part 3 Class Q of the GPDO was sound and accordingly the appeal should be dismissed.

*David Murray*

INSPECTOR

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## Appeal Decision

Hearing held on 26 July 2016

Site visit made on 26 July 2016

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 2<sup>nd</sup> September 2016**

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**Appeal Ref: APP/L3245/W/16/3146986**

**Land to the north of Pulley Lane, Bayston Hill, Shrewsbury, Shropshire, SY3 0DW**

- 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 GH Davies Farms Ltd. against the decision of Shropshire Council.
  - The application Ref. 14/05655/OUT, dated 14 December 2014, was refused by notice dated 21 September 2015.
  - The development proposed is the erection of up to 35 dwellings.
- 

### Decision

1. The appeal is dismissed.

### Application for costs and preliminary matters

2. At the Hearing an application for partial costs was made by Shropshire Council against GH Davies Farms Ltd. This application is the subject of a separate Decision.
3. The proposal is in outline format with all detailed matters, other than the access to the site from Pulley Lane, reserved for subsequent consideration.
4. At the Hearing a formal Agreement made under s106 of the Act was tabled. It is dated 25 July 2016 and is signed by the main parties. In general terms, the Agreement covers the provision of affordable housing as part of the development in accordance with the Council's Supplementary Planning Document on the Type and Affordability of Housing (adopted 2012).

### Main Issues

5. The main issues are:
  - Whether the proposal accords with the housing strategy set out in the development plan;
  - The effect on a recognised gap between Shrewsbury and Bayston Hill;
  - The effect on the character of the countryside landscape;
  - Whether the Council can demonstrate a 5 year supply of new housing sites (5HLS) to meet a full objectively assessed housing need;
  - Whether the proposal constitutes sustainable development.

## Reasons

### *Background*

6. The appeal site lies on the edge of the built up area of Shrewsbury although the site lies within the parish of Bayston Hill, which includes a village of that name located on higher land to the south. The appeal site extends to about 1.5ha and forms part of a much larger open field currently in cereal production. To the north of the site the land is bounded by the meanders of the Rea Brook, a tributary to the River Severn, while to the east is a relatively new residential development (now named Bestune Way) the majority of which is affordable housing. The site is at a lower level than Pulley Lane, located to the south, and generally falls away towards the brook.
7. It is proposed in outline to develop the site with up to 35 dwellings with access from Pulley Lane. A detailed plan shows that the access to the site would be a 'T' junction with visibility splays along Pulley Lane of 160m to the east and 140m to the west, and with 1m wide 'ladder' markings along the centre of the highway. At the point of access Pulley Lane has a national 60mph speed limit; the 50mph restriction applies from further east on Pulley Lane to near the junction with the A5112.

### *Policy context*

8. The development plan for the area includes the Council's Core Strategy adopted in 2011, and the Site Allocations and Management of Development Plan (SAMDev) adopted in December 2015 following an Examination into its soundness.

### *Accord with the housing strategy*

9. The overall strategy set out in the Core Strategy is for Shropshire to meet its housing needs and make its settlements more sustainable by delivering around 27,500 new homes in the period 2006 - 2026. Specific roles and housing targets are given for Shrewsbury, market towns and other key centres. Further, the Strategy says that rural areas will become more sustainable through a 'rural rebalance' approach which will allow development and investment in rural hubs and community clusters.
10. Within this strategy for sustainable development, the Council says that the appeal site should be regarded as an area of countryside to which Core Strategy policy CS5 should apply and this seeks to strictly control new development in the countryside and limits new housing development to the forms identified in the policy which include housing which has a specific need to be located there. The policy is augmented by policy MD7a of the SAMDev. The Council says that the proposal for mainly open market housing would not meet these criteria. Mrs Howie on behalf of the appellant considers the policy is of a permissive nature and that it does not solely restrict housing development to the specified categories as it refers to the categories as "particularly where" which demonstrates that it is not an exhaustive list.
11. Nevertheless, even though the site lies adjacent to built-up development, as part of an extensive open field it has a simple rural character that is quite different to the urban area. I will deal with the effect on the landscape as a separate issue, but visually and physically I do not regard the appeal site as being on the edge of the rural settlement of Bayston Hill. Further, I am not

- persuaded that the development of the appeal site will clearly improve the sustainability of this rural community as the appellant's agent suggests.
12. I am satisfied that the land should be regarded as countryside to which Policies CS5 / Policy MD7a should apply. When read together and as part of the overall strategy I do not read the policies as supporting the continued development of the village with open market housing. Although the policy was adopted prior to the issue of the National Planning Policy Framework (the Framework) I consider that the policy generally accords with the Framework which has a core principle of recognising the intrinsic character and beauty of the countryside.
  13. Turning now to policy CS4 this allows development in 'Community Hubs' and 'Community Clusters.' Bayston Hill is defined as a 'Community Hub' and SAMDev policy S16.2(ii) indicates a housing guideline of 50-60 additional dwellings over the period to 2026 where development by infilling, groups of houses and the conversions of buildings may be acceptable on suitable sites within the settlement boundary identified on the proposals map. The appeal site is clearly not within the settlement boundary of Bayston Hill which I saw at my site visit relates to the existing developed area of the village further to the south. Moreover, from the evidence put to me regarding new housing in Bayston Hill, the proposed development on the appeal site would be likely to result in the guideline for the parish being significantly exceeded in the plan period as the new housing already completed in the settlement since 2006, and with planning permission as at 2015, already exceeds the guideline for the settlement.
  14. The appellant's agent suggests that it is more appropriate to consider the appeal proposal in the context of being an addition to Shrewsbury rather than Bayston Hill. As such, she says the proposal should be regarded in relation to Core Strategy policy CS2 which sets out an additional provision for approximately 6,500 dwellings by 2026. This guideline is to comprise a combination of redevelopment of brownfield sites, and a range of new greenfield sites, both allocated land and windfall opportunities. Mrs Howie advised me that the delivery of new housing within Shrewsbury has not kept up with the trajectory set out in the Core Strategy and therefore the release of further housing land in the interim is necessary.
  15. The Council states that a five year supply of deliverable housing sites was established at the time that the SAMDev was adopted in December 2015 having been Examined and found sound. Whilst there was a record of under delivery in Shrewsbury from 2006-2013 resulting in a cumulative short fall of about 500 dwellings as at 2015, this under-delivery has been factored into the current five year requirement. Moreover, the phased trajectory approach recognises that there is a lead-in time to planned development taking place. In respect of Shrewsbury, the Council consider that the completions and commitments shown in the 5HLS statement of 2015 of 1,343 had now risen to 1,911 and was in line with the trajectory.
  16. Although Mrs Howie cast doubt over the performance of achieving the housing numbers on the allocated sites in Shrewsbury and queried the continued emergence of windfall sites, in the absence of a comprehensive assessment of the current state of delivery of allocated and windfall sites, I am unable to conclude that there is a material shortage in the delivery of allocated and windfall sites in Shrewsbury, or that the overall guideline in CS2 will not be

achieved, to the extent that other land should be considered now. I am therefore satisfied that there is not an overriding need to consider land outside a defined settlement in the context of SAMDev Policy MD3 at the moment.

17. Overall on this issue, when considered in respect of the relevant policies CS2, CS4, CS5 and MD3 and MD7a, when these policies are read together, I find that the proposal would not accord with the development strategy set out in the development plan as the housing site would involve the development of land in the countryside well beyond the settlement boundary of Bayston Hill. Nor has it been demonstrated that there is an over-riding need for additional housing at the moment as an addition to the built up area of Shrewsbury in the context of policy MD3.

*The effect on the gap*

18. SAMDev Policy S16.2(ii) refers to Bayston Hill and in addition to setting out the guideline for new housing development within the settlement says "the retention of the gap of undeveloped land between Bayston Hill and Meole Brace, Shrewsbury remains an important objective of the strategy for the village." The views expressed by local residents at the hearing and in the written representations made, stressed the importance of the gap to the local community which sees itself as visually and physically separate from Shrewsbury and with a separate identity.
19. At the accompanied site visit, I walked around the appeal site and parts of the gap leading up to Bayston Hill and via public footpaths to the western edge of Shrewsbury, the built up part of which is known locally as Meole Brace. I am satisfied that the appeal site forms part of the undeveloped gap referred to in the policy.
20. It appeared to me that the appeal site at the moment has an open boundary with the remainder of the extensive field. While the northern, eastern and southern boundaries of the site are enclosed by the Brook, the Bestune Way development and Pulley Lane respectively, there are no natural features which enclose this western side of the land. Further, my attention was drawn by local people to the rural edge of the Bestune Way development. While this is likely to have been bounded by a field hedge before construction work started, the development has resulted in high stone gabions which retain the higher raised land levels.
21. The affordable housing scheme may have been a recognised exceptional development in a countryside location, however in visual terms this new development forms a distinctive edge of the existing built up area. While the gap is bisected by the A5 cutting and Pulley Lane itself, the open gap appeared to me to be a discernable and distinct area. Although views of the appeal site are restricted by vegetation along much of Pulley Lane there are local views of the site and the contribution that the land makes to the gap is very apparent from the public footpath that crosses the appeal site.
22. The proposed development would only result in the loss of about 1.5ha of the extensive field but I consider that this loss would be significant in that it would involve a clear and established part of the gap which is clearly seen in local views from public places. As such, I conclude on this issue that the proposal materially conflicts with Policy S16.2(ii).

*Effect on character and Appearance of the area*

23. The appeal site is described generally as an 'urban area' of Shrewsbury in the Shropshire Landscape Character Assessment but it seemed to me that the physical characteristics of the field forming the site were similar to the 'Principal Settled Estate Farmlands', a term which applies to the land to the south of Pulley Lane. Whichever description is applied, the appellant's agent stressed that the land does not have a special landscape designation.
24. From points along Pulley Lane the proposed housing would be seen in gaps in the roadside hedge against the backdrop of the existing edge to the built up area. The fundamental change to the character of the land that the development would cause would also be apparent from the public footpath that crosses the site and the alignment of which the site plan shows would be incorporated into the housing layout. This footpath is part of the Shropshire Way but Mrs Howie pointing out other parts of the built up area of the town where this long distance footpath travels without, in her view, causing detriment to the footpath's setting. Nevertheless, dealing with the present open farmland form I consider that the development would have an imposing and materially harmful visual effect on the character of this landscape.
25. Further away from the site and particularly in views from roads to the south and public footpaths to the west, I conclude that the development proposed would not be noticeable in the landscape as it would be contained in the sloping land form and screened by man-made features such as the Pulley Lane embankment over the A5 cutting. The development proposed would not be prominent on the skyline from wider viewpoints.
26. Overall, on this issue I conclude that the proposed housing development would result in a significant change to the rural landscape and this impact would be moderately harmful to the present character of this area of countryside, contrary to the provisions of Policy CS5, but the area in which this harmful impact would be seen is limited in extent.

*Housing land supply and full objectively assessed need*

27. In order to boost significantly the supply of housing, paragraph 47 of the Framework indicates that Council's should use an evidence base to plan to meet the full objectively assessed needs for market and affordable housing (FOAN). Further, paragraph 49 indicates that relevant policies for the supply of housing should not be considered up to date if a five year supply of deliverable sites cannot be demonstrated.
28. In this case the appellant does not contest that the Council can demonstrate an overall five year supply at the moment but contends that the development plan does not meet the current FOAN. In support of this the appellant refers to appeal decision APP/L3245/W/3067596 where the Inspector allowed 68 houses on land at Teal Drive, Ellesmere, Shropshire in February 2016. After a detailed analysis of the issue relating to housing needs, the Inspector concluded that the Core Strategy housing requirement was now out-of-date and the Council did not have a FOAN; nor a robust housing requirement in line with the Framework and Planning Practice Guidance (PPG). On this basis he concluded that the Council could not demonstrate a five year supply of deliverable sites in accordance with paragraph 47 and that paragraph 14 was engaged. As the

adverse benefits were not judged sufficient to significantly and demonstrably outweigh the substantial benefits he allowed the appeal.

29. This decision has been challenged in the Court by the Council and Mr Justice Ouseley has given the Council permission to proceed. Further, I am advised that, by letter dated 9 August 2016 from the Government Legal Department<sup>1</sup>, it is conceded by the Secretary of State that the Inspector's decision in the Teal Drive case should be quashed although other parties are also involved in the case, and as yet no date had been set for the hearing. Nevertheless, in the light of the Secretary of State's decision to concede that the decision be quashed, I am not able to place any meaningful weight on the precedent said to be created by the APP/L3245/W/3067596 case.
30. Notwithstanding the Teal Drive decision, the Council pointed out that in terms of maintaining a housing supply that is aligned with the FOAN, the Council recognises the need to undertake a development plan review. The Council published a 'Full Objectively Assessed Housing Need Report' on the 4 July 2016. Although Mrs Howie considered that inadequate consideration had been given in the Report to address the fundamental problems with the affordability of housing or take full account of house prices and other market signals, I am clear that the proper forum in the plan-led system for such matters is the formal consultation and examination process in the Development Plan Review.
31. I have also had regard to the many other appeal decisions put forward by the main parties but I do not consider that these involve similar circumstances as the present appeal or are up to date in terms of the probable result of the legal challenge of the Teal Drive case mentioned above.
32. Overall on this issue I find that the evidence put forward at the hearing does not provide a clear case to establish that the Council cannot demonstrate a five year supply of housing sites in accordance with the strategic requirements of the current development plan. I conclude that policies in the development plan that restrict the supply of housing land are not to be considered out of date and therefore the second part of paragraph 49 of the Framework is not engaged in this case.

#### *Planning balance*

33. The proposal needs to be considered in the context that the Framework seeks to facilitate sustainable development and boost significantly the supply of housing. Within this, the Framework recognises that the economic, social and environmental dimensions to sustainable development have to be considered together as they are mutually dependent.
34. Bringing together my conclusions on the main issues, I have found that the proposed housing development would not accord with the development strategy for the parish of Bayston Hill as the site lies well away from the settlement and in the countryside. Nor has it been established that there is a material shortfall in the implementation of the development plan for new housing in and around Shrewsbury itself at the moment to justify residential development on the appeal site as an exception.
35. In addition, the appeal site forms part of the recognised open gap between Bayston Hill and Meole Brace, and its development would materially erode the

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<sup>1</sup> Ref. Z1615973/ASM/B5

visual and physical qualities of the gap contrary to SAMDev Policy S16.2(ii). Housing development on this part of the present open field would also have a moderately harmful effect on the local countryside landscape but the area of this harm would be limited in extent.

36. I have also found that the evidence submitted on this appeal does not clearly override the Council's claim that it is able to demonstrate a five year supply of deliverable sites at the moment to meet the full objectively assessed need, bearing in mind that the Secretary of State has conceded that the Teal Drive decision should be quashed.
37. These adverse effects have to be balanced with the benefits. I recognise that the proposed housing development would contribute in a meaningful way towards meeting the strategic housing needs at the moment and there is a formal agreement in place to ensure that affordable housing would be provided on site as part of the development in accordance with the Council's adopted policy on such provision. The construction of the houses and the activity of the people that would live there subsequently would also be likely to support economic activity which would be likely to benefit trade and service provision in the wider area.
38. Nevertheless, I find that the environmental cost of the proposal would be considerable and the identified adverse effects, particular the erosion of the recognised gap, are not outweighed by the benefits to a significant degree and as such I find that the proposal does not constitute sustainable development as defined by the Framework. Moreover, the development plan is not out of date and the conflict with it that I have identified is not outweighed by any other material consideration.

### **Overall conclusion**

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

*David Murray*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mrs H Howie, MA (Hons) MCD, MRTPI.      Planning Consultant, Berrys.

Mr Davies      GH Davies Farms.

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Lynch, MRTPI      Planning Consultant, Shrewsbury Council.

Mr E West, MCD, MRTPI.      Principal Planning Officer, Policy Team,  
Shrewsbury Council.

### INTERESTED PERSONS:

Mrs C Higgins      Parish Clerk, Bayston Hill Parish Council

Mr Goodman      Local resident

Mrs Hitchcock      Local resident

Mrs S Merricks      Local resident

Mr A Goldsmith      Local resident

Ms J Kumiega      Local resident

Mr R Mayer      Local resident and Shropshire Wildlife Trust

## **DOCUMENTS**

- 1      S106 Agreement dated 25 July 2016 and signed by both main parties.
- 2      Statement of Common Ground signed by both main parties.
3.      Appeal decision APP/ L3245/W/15/3067596 (the Teal Drive Decision) (Mrs Howie).
- 4      Legal Challenge to Teal Drive decision as submitted by Shropshire Council and related legal documents including Application for permission to proceed (dated 13 July 2016 (Shropshire Council)).
- 5      Extract from Shrewsbury and Atcham Landscape Sensitivity and Capacity Study (2007).



- 6 Photographs and maps as referred to by Mrs Hitchcock.
- 7 Extract from Shropshire Council - Five Year Housing Land Supply Statement (2015).
- 8 Shropshire Council - Full Objectively Assessed Housing Need Report (4<sup>th</sup> July 2016) and Accompanying Note July 2016.
- 9 Council's written application for partial costs.

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## Costs Decision

Hearing held on 26 July 2016

Site visit made on 26 July 2016

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 2<sup>nd</sup> September 2016**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/16/3146986 Land to the north of Pulley Lane, Bayston Hill, Shrewsbury, Shropshire, SY3 0DW.**

- 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 Shropshire Council for a partial award of costs against GH Davies Farms Ltd.
  - The hearing was in connection with an appeal against the refusal of an application for the erection of up to 35 dwellings.
- 

### **Decision**

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

### **The submissions for the Council**

2. The Council makes an application for partial costs related to the issue of the effect of the proposed housing development on a recognised gap of undeveloped land between Meole Brace in Shrewsbury and Bayston Hill which development plan policy indicates should be protected from development. The Council has referred to other Inspectors' decisions which have given the protection of this gap significant weight. The schemes that have been permitted, like the affordable housing to the east of the site, are policy compliant. Despite this the appellant has put forward the same arguments in this case. The Council has spent time and resources on this case preparing a rebuttal to the appellant's restated arguments and the appellant and the agent's team have not learned the lessons from previous refusals and where appeals have been dismissed. The hearing has been unnecessarily longer because of the time that has had to be spent discussing the gap issue. This amounts to unreasonable behaviour by the appellant company and has resulted in the Council incurring the unnecessary expense of dealing with this issue.

### **The response on behalf of the appellant**

3. The appellant company and its team do not consider that the proposed development would harm the policy objective of retaining the gap between the two settlements. The policy does not place a total ban on development there and it is not unreasonable for the appellant to make a case to demonstrate that this proposal is acceptable. Further, the gap is not defined in detail and it has to be interpreted and a judgement made on whether any specific form of development would still retain the function of the gap. The Council has

allowed housing development to take place on the neighbouring site to the east and on other sites along Pulley Lane which were both said to be in the gap. Further, Inspectors have indicated that not all areas of the gap are of equal value and the application site is mainly seen not on the skyline which was a concern on other schemes.

4. The appellant is entitled to make a case for the effect on the gap to be considered and weighed up and balanced with the other planning issues pertinent in this case. The lack of agreement with the Council over the effect on the gap does not amount to unreasonable behaviour by the appellant and the time spent by the Council on addressing this issue both in writing and at the hearing is not an unnecessary expense.

### **Reasons**

5. Setting aside the other planning issues that arose in this case, the appellant's team were clearly aware of the 'gap' issue and addressed it in their representations and submissions. The gap is referred to in SAMDev Policy S16.2(ii) as being between Bayston Hill and Meole Brace but otherwise the extent of undeveloped land is not clearly defined and a judgment has to be made about which land contributes to the gap. Further, the land in the gap is subject to natural and man-made features, like the A5 cutting and the Pulley Lane embankment, which result in areas where development may not have a material effect on the gap.
6. I am therefore satisfied that a planning judgement has to be made on whether any specific proposal lies in the gap and the effect that it will have on it. The appellant and its team are entitled to make a case on this point for consideration. While the Council referred to other appeal decisions which refer to the gap in a positive way, these were away from the site and were considered on their individual merits and my attention was not drawn to any recent planning history on the appeal site itself where the gap issue had been tested at appeal. The previous scheme for a care village on a larger area than the current site was submitted prior to the adoption of the current development plan and planning circumstances are likely to have been different then.
7. I am therefore satisfied that it was not unreasonable for the appellant and planning team to put forward the case that the proposal would not have a material effect on the retention of the undeveloped gap. In any event, part of the appellants' case was that the provisions of the development plan were out of date, as the Council could not demonstrate a five year supply of new housing sites in accordance with the full objective assessed housing need. If that case had prevailed, in accordance with national planning policy, the weight to be applied to the gap policy may have been reduced being a policy for the supply of housing at least in part, and that would have affected its consideration in the planning balance.
8. Overall, I am satisfied that the appellant did not act unreasonably in making a planning case for the development of the site even though that lay in the undeveloped area between Bayston Hill and Meole Brace and that the expenses incurred by the Council in response to the gap issue formed part of the normal costs that arose from it substantiating its refusal of planning permission at appeal.

**Conclusion**

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*David Murray*

INSPECTOR

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## Appeal Decision

Site visit made on 30 August 2016

by **Daniel Hartley MTP MBA MRTPI**

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

Decision date: 01 September 2016

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### **Appeal Ref: APP/L3245/W/16/3152245**

### **Circassian, Preston Gubbals Road, Bomere Heath, Shrewsbury SY4 3LT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms A Clegg against the decision of Shropshire Council.
  - The application Ref 16/00458/FUL, dated 3 February 2016, was refused by notice dated 25 April 2016.
  - The development proposed is the erection of a detached bungalow following demolition of garaging, porch and dining room of an existing dwelling.
- 

### **Decision**

1. The appeal is dismissed.

### **Procedural Matter**

2. The planning application was amended part way through the Council's determination of the planning application. I have determined this appeal in accordance with the amended plans submitted to the Council. Such plans were before the Council when it made its decision and in essence reduced the amount of proposed development on the site.

### **Main Issue**

3. The main issue is the effect of the proposal upon the character and appearance of the area.

### **Reasons**

#### *Site and proposal*

4. The appeal site falls within an established residential area and includes a bungalow (known as Circassian) which appears to have been extended to the side to include two garage spaces, a porch and a dining room. In the immediate locality, the majority of the dwellings are bungalows which are set within large plots, set back from the main road and including hedgerow planting. The area includes mature planting which adds to the verdant character of the locality, and, overall, there is a sense of open and green space around the buildings. These are distinctive characteristics of the area which positively add to the sense of place.
5. It is proposed to demolish the development to the side of the existing dwelling and to erect a three bedroom bungalow. Two car parking spaces would be

provided to the front of each dwelling utilising the existing access from Preston Gubbals Road.

*Character and appearance*

6. I acknowledge that there is already single storey development to the side of Circassian. However, this is set well back from the front elevation of the bungalow and is lower in height than the original dwelling. Consequently, it appears subservient in scale, and, overall, a sense of space is maintained around the building and within the plot when viewed from the street-scene.
7. In contrast, the proposed bungalow would be similar in height to Circassian and would be built in parallel with the front and side walls of this existing property. Given the scale and position of the proposed bungalow, I consider that it would unacceptably diminish the sense of space within the plot and between buildings on Preston Gubbals Road, to the detriment of the character and appearance of the area. This adverse impact would be compounded by the fact that more vehicles would be forced to park close to the main road. Collectively, these issues are of such magnitude that I consider that the development would appear cramped and out of place.
8. Whilst I note that the bungalows would each have reasonably sized gardens to the rear, this does not overcome my concerns raised above. For the reasons outlined above, I conclude that the proposal would have a significantly adverse impact upon the character and appearance of the area. Therefore, the proposal would not accord with the design aims of the National Planning Policy Framework; Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy 2011; Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan 2015, and guidance contained with the Shropshire Local Development Framework "Type and Affordability of Housing" Supplementary Planning Document 2012.

**Other Matters**

9. The appellant asserts that the proposal would enhance the appearance of the site and that approval of planning permission would enable improvements to be made to Circassian, including new fencing. However, I have concluded that significant harm would be caused to the character and appearance of the area. Improvements to the wider site, including new fencing, would not justify approval of planning permission.
10. The Council has agreed (notwithstanding its local policies) that it is no longer a requirement to provide an affordable housing contribution for one dwelling on this site. I agree with this stance, taking into account the Court of Appeal's judgment of 11 May 2016, and the greater weight to be given to the Secretary of State's Written Ministerial Statement of 28 November 2014.
11. None of the other matters raised outweigh my conclusions on the main issue.



**Conclusion**

12. For the above reasons, and taking into account all other comments made, I conclude that the appeal should be dismissed.

*Daniel Hartley*

INSPECTOR

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## Costs Decision

Site visit made on 30 August 2016

by **Daniel Hartley MTP MBA MRTPI**

**Decision date: 01 September 2016**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/16/3152245 Circassian, Preston Gubbals Road, Bomere Heath, Shrewsbury SY4 3LT**

- 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 Ms A Clegg for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the erection of a detached bungalow following demolition of garaging, porch and dining room of an existing dwelling.
- 

### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant considers that the proposal accords with all local and national planning policies, that the Council has failed to properly apply such policies and that it reached a flawed, unreasonable and subjective decision in refusing planning permission.
4. In my appeal decision, I have found that the proposal would cause unacceptable harm to the character and appearance of the area. I am satisfied that the Council did apply relevant planning policies correctly and that in doing so it was necessary to apply a degree of subjective planning judgment. I have dismissed the appeal and hence I do not consider that the Council's decision was flawed or unsubstantiated.
5. For the above reasons, I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense. Therefore a full award of costs is not justified.

*Daniel Hartley*

INSPECTOR

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## Appeal Decision

Site visit made on 23 August 2016

**by David Murray BA (Hons), DMS, MRTPI**

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

**Decision date: 7<sup>th</sup> September 2016**

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**Appeal Ref: APP/L3245/W/16/3149727**

**Land opposite Hill View, Pontesford Hill, Pontesbury, Shropshire, SY5 0UH.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Perks against the decision of Shropshire Council.
  - The application Ref. 15/04036/FUL, dated 16 September 2015, was refused by notice dated 23 December 2015.
  - The development proposed is the demolition of the existing commercial garage/workshop building and the erection of one single open market dwelling and formation of new access.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The benefit of removing the commercial activity from the site;
  - The effect on existing trees;
  - The effect on the Shropshire Hills Area of Outstanding Natural Beauty;
  - Whether the benefits of the proposal outweighs the objection in the development plan against open market housing in the open countryside and amounts to sustainable development;

### Reasons

#### *Background*

3. The appeal site lies in an elevated position on a hillside at Pontesford Hill which forms part of the Shropshire Hills Area of Outstanding Natural Beauty (SHAONB). Access to the site is along a narrow rural lane which also serves a few scattered houses and farmsteads. The site contains a single storey building with elevations clad in corrugated metal painted black and with a mono-pitch roof, which lies on a linear plateau dug into the hillside parallel with the lane. There are mature trees and general vegetation around the garage building. The building is in use as a commercial garage and at the time of my visit it contained a vehicle being worked on and a limited amount of workshop equipment.

4. It is proposed to demolish the commercial garage/workshop building and erect a detached dwelling. The plans submitted show that the footprint of the house would cover the footprint of the garage/workshop and have a ground floor area about twice the area of the existing building footprint. Further, the house would be sited into the hillside bank so that from the rear only the first floor accommodation and the roof would be visible from the east. The existing site has a vehicular access to the south but it is proposed to close this and form a new access to the north of the new house.
5. The proposal also includes an informal agreement put forward by the appellant to enter a formal obligation to make a contribution to the provision of affordable housing off-site in accordance with the Council's Supplementary Planning Guidance.

*The impact of the commercial activity*

6. It is clear that the site lies in open countryside well away from any settlement and Policies CS5 of the Core Strategy and Policy MD7a of the Site Allocations and Management of Development plan (SAMDev) limit new housing development in such an area to the specific types set out in the policies that have an exceptional need to be located in the countryside. The proposal is not of this nature and so the development does not accord with the overall strategy in the development plan. These policies also accord with the national guidance in the National Planning Policy Framework (the Framework) which indicates in paragraph 55 that isolated new homes in the countryside should be avoided.
7. However, the re-use of previously developed land is generally encouraged in the Framework provided that it is not of high environmental value. The appellant's case is that the redevelopment of the garage workshop would be beneficial in that it would remove a potentially more intensive use which would harm the amenity of the area and neighbours and be poorly sited off a narrow lane. Nevertheless, the appellant and his agent stress the impact that could arise with the use in the future rather than weigh up the current impact. At my site visit, it appeared to me that the existing car repair operation is very low key based on the modest nature of the building and the workshop facilities within it. It is also sited away from other houses. Further, in order to verify the existing commercial use my attention has been drawn by the appellant to the planning permission granted in 1988 for the use of a hay storage building to use as garage workshop (Ref.88/526/148/88). But I note that condition No.4 imposed on that permission limits the workshop use to that carried out by Mr Roger Perks only, (i.e. the appellant). I therefore consider that it has not been demonstrated that a materially more intensive use, including a much greater degree of traffic generation, would be likely to occur in the future.
8. I conclude on this issue that only limited weight can be given to the claimed benefits arising from the redevelopment of the site and the removal of the potential impact of the commercial use.

*Effect on trees*

9. The Council says that the application was not accompanied by a proper assessment of the effect on existing trees however I have had regard to the Arboricultural Assessment (AA) subsequently submitted with the appeal. Further the agent advises that as a result of the AA it has been decided not to pursue the development of the new domestic garage building as this would

have involved the potential loss of a mature sycamore in good condition. The siting of the dwelling has been fine-tuned to take the AA into account and it is now indicated that no grade A trees would be removed.

10. On the basis of the AA and the suggested amendments to the scheme together with my general assessment of the trees at the site visit, it appears to me that the proposed development will not now result in the loss of specific trees which are worthy of protection in their own right because of their amenity value.

#### *Effect on the SHAONB*

11. Policy CS17 and Policy MD12 seek to ensure that new development does not have a significant adverse effect on the County's environmental assets which include the SHAONB. Further, the Framework indicates in paragraph 115 that great weight should be given to conserving the landscape and scenic beauty of AsONB which, along with the other recognised areas, have the highest status of protection in relation to landscape and scenic beauty.
12. At my site visit I noted that the existing building is unobtrusive in the landscape and is only seen in a limited view from nearby on the lane. The presence of trees and the modest form and dark external colour of the building will limit long distance views of the building even though it lies on an elevated position on the hillside.
13. The proposed house would have a considerably greater building bulk and this would be accentuated by the need to reduce the presence of trees and shrubs between the proposed house and the lane to provide for space around the dwelling and light to it. This reduction in vegetation will open up the site for greater views out but there are also likely to be reciprocal views back towards the site from the wider landscape. Although the new house as proposed would be seen in the context of the other scattered houses along the lane and on the hillside, the degree of additional building bulk would make the presence of development on this remote site more imposing in the landscape.
14. I find that the increased visual impact of built development on the hillside would be harmful to the distinctive landscape character of the SHAONB. It would constitute a significant adverse effect in the context of policy CS17 and would not accord with the requirement to conserve the special landscape as set out in the Framework.

#### *Planning Balance*

15. The local development plan and the Framework encourage sustainable development. Within this national and local policy there is a clear policy presumption against isolated new dwellings in the countryside but the redevelopment of brown field sites is generally supported. In this case the site contains a commercial garage which is sited off a very narrow rural lane and the redevelopment of the site with a house could in principle bring about an enhancement of the local environment.
16. Bringing together my conclusions on the main issues, I have found that the present garage operation appears very low key and the building is unobtrusive in the landscape. It has not been demonstrated that the operation causes significant environment problems. Further, the claimed benefits mainly relate to the potential for the use to cause more problems in the future but it has not been shown that such intensification is likely to take place.

17. The new house proposed would have a much greater building bulk compared to the present structure and, coupled with the need to remove trees and vegetation around the house, would make the appearance of development on the site more prominent on this elevated position on the hillside. I have found that such increased visual impact of building development would be harmful to the distinct landscape character of the SHAONB, the protection of which should be given great weight.
18. These adverse impacts have to be balanced with the benefits of the development. In addition to the claimed benefit of the removal of a workshop use, the new house would make a small addition to the county's housing requirements as a windfall site as per policy MD3 of the SAMDev and there will be unquantified but small economic benefits in terms of the occupiers of the new house using local facilities and services. There may also be a reduction in traffic generation on the narrow access lane but such movements have not been quantified. The appellant's agent also refers to the possibility of an ecological enhancement of the site.
19. I have also noted the appellant's agent's representations about the Council having approved other houses closer to the settlement of Pontesbury but these do not affect my judgement that the site lies in a remote location in the countryside away from any recognised settlement.
20. Overall, I do not consider that the benefits of development clearly outweigh the adverse impacts that I have found that the development would cause and the proposals do not accord with either the development plan or the Framework when these are each read as a whole. I conclude that the overriding environmental impacts mean that the proposal does not constitute 'sustainable development', notwithstanding the limited social and economic benefits. I find that the lack of accord of the proposal with the development plan is not outweighed by any other consideration on its own or taken together.

### **Conclusion**

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

*David Murray*

INSPECTOR



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## Appeal Decision

Site visit made on 23 August 2016

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 2 September 2016**

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**Appeal Ref: APP/L3245/D/16/3153501**  
**162 Ellesmere Road, Shrewsbury, SY1 2RQ.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms A Clegg against the decision of Shropshire Council.
  - The application Ref. 16/00942/FUL, dated 29 February 2016, was refused by notice dated 29 April 2016.
  - The development proposed is the erection of a detached garage with office/store above.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached garage with office/store above at 162 Ellesmere Road, Shrewsbury, SY1 2RQ in accordance with the terms of the application, Ref. 16/00942/FUL, dated 29 February 2016, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:500 Block Plan; 1:100 'Planning drawing' 001 dated Jan 2016.
  - 3) Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
  - 4) The garage/store/office hereby approved shall not be used as living accommodation. The garage and first floor space above shall only be used for purposes incidental to the enjoyment of the residential dwelling known as No. 162 Ellesmere Road and at no time shall a separate use be carried out.
  - 5) No openings shall be formed in the rear elevation of the building; that is the elevation facing north.

### Main Issues

2. The main issues are the effect of the proposed garage on the character and appearance of the area; and secondly the effect on the living conditions of the occupiers of the adjoining property No.162a Ellesmere Road.

### Reasons

### *Background*

3. The appeal site comprises a detached house which fronts Ellesmere Road on the northern edge of Shrewsbury. Other houses along this frontage are also of a detached nature and set in large gardens. The submitted site plan shows that the adjoining property No.162a is also in the same ownership as the appeal site and the appellant says this property is used as an annexe to the main house.
4. It is proposed to erect a double garage at the front of the existing house. The garage would have a high pitched roof and the enclosed space would be used as an office/store and be lit by two dormer windows. The ridge of the roof of the building would be about 4m high.
5. I also note that the Council has granted planning permission for the erection of a garage building of the same footprint in the same position on site but the ridge of the roof would be about 1.1m lower due to a decrease in the height of the eaves of the building. Further, while the appellant says that outline permission has been granted for the redevelopment of No.162a with two new detached dwellings under ref. 14/0804/OUT, the Council says that this permission has not been taken up and therefore carries little weight.

### *Effect on character and appearance.*

6. Although there is evidence of a tree being felled and another one having been severely cut back in the front garden of No.162, the site has a verdant appearance with a high evergreen hedge long the frontage of the main road and this hedge is shown to be retained in the proposal. Further, wider views of the proposed garage in the public realm of the street scene would be substantially screened by the vegetation in the adjoining gardens. While the screening effect of such vegetation cannot be relied on in perpetuity, I am satisfied that the presence of the double garage would not be prominent in the street scene. Further, the position of buildings along this frontage varies with no definitive building line. I am also satisfied that the scale of building proposed, even with two dormer windows in the roof slope, would appear as a building of a domestic scale which would be visually subordinate to the bulk and design of the main dwelling at No. 162.
7. Overall on this issue, I find that the proposed double garage would not be prominent in the street scene or have a harmful visual effect on the character and appearance of the area. As such the proposal meets the requirements of policy CS6 of the Council's Core Strategy and policy MD2 of the Site Allocations and Management of Development plan (SAMDev) as it would be appropriate to the local context and character of the site.

### *Effect on living conditions*

8. This issue is concerned with the relationship of the proposed double garage with No.162a which has a bay window on the ground floor front elevation which lights a habitable room. This part of the overall property has planning permission to be redeveloped with two houses but at the moment there is no guarantee that the permission will be implemented and therefore I have not placed much weight on this potential change. Nevertheless, it is reasonable for me to take into account that No.162a is in the same ownership as the appeal site and I understand that the building is occupied by a family member as an annexe.
9. The proposed double garage would be sited to the south of the window and project some 8m out from it starting about 3m away. The bulk and length of the garage

and its orientation would take some light and late afternoon sun away from the window and reduce the open aspect from inside this room. However, the roof slope would be angled away from the sight lines from the window and there would be no dormer windows on this side elevation. As a domestic outbuilding within the same present domestic curtilage, I do not consider that the impact of the proposed building on the living conditions of the occupation of the annexe is sufficient to justify the rejection of the scheme. I therefore find no material conflict with relevant parts of the policies mentioned above regarding this issue.

### *Planning balance*

10. Bringing together my conclusions on the main issues, I have found that the proposed double garage and office above will not be prominent in the street scene nor harmful to the character and appearance of the surrounding area or the setting of the present dwelling at No.162. Although the building bulk will take away some sunlight and aspect to a front facing window at No.162a this annexe building is within the control of the appellant and the degree of harm to the living conditions of the annexe within the same curtilage is not sufficient to justify the rejection of the scheme. Overall, I have found that the proposal meets the relevant requirements of the development plan.
11. I am also satisfied that the proposal accords with the general guidance in the National Planning Policy Framework (the Framework) and the emphasis that this places on good design (paragraphs 56-64) and on ensuring a good standard of amenity (paragraph 17 4<sup>th</sup> bullet point).
12. Overall, I conclude that there are no other considerations which indicate that planning permission should not be granted. I will therefore allow the appeal.
13. In terms of conditions the Council recommends five which I will consider under the same numbering. In addition to the statutory condition on the timing of development (1) it is reasonable and necessary that a condition is imposed to ensure that the development is undertaken in accordance with the approved plans which should also be specified in the interests of clarity (2). In order to ensure that the new building fits in with its surroundings I will impose a condition that samples of the external materials have to be agreed with the Council before construction work begins. As the development is being proposed within the curtilage of a single dwelling in a residential area it is reasonable and necessary that a condition is imposed to ensure that the new garage is not used for living accommodation or used for other separate purposes as such use would be likely to be too intensive for the site and harm the living conditions of the occupiers of the property (4). Finally, the main aspect of the garage faces the appellant's own property and there should be a restriction on the formation of additional fenestration on the other elevation facing north to ensure that this land is not overlooked by new windows which could result in a loss of privacy (5).

### **Conclusion**

14. For the reasons given above I conclude that the appeal should be allowed.

*David Murray*

INSPECTOR

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