



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

Date: Thursday, 13 April 2017

Committee:
North Planning Committee

Date: Tuesday, 25 April 2017

Time: 2.00 pm

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

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

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

Members of the Committee

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

Substitute Members of the Committee

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

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the Minutes of the meeting of the North Planning Committee held on 28th March 2017, attached, marked 2.

Contact: Emily Marshall on 01743 257717

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Thursday, 20th April 2017.

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 Lidl, 70 Victoria Road, Oswestry - 16/05872/ADV (Pages 9 - 18)

Erect and display 4 no. store billboard advertisement signs and 1 no. free standing billboard.

6 Bailey Street and New Street, Oswestry - 17/00985/FUL (Pages 19 - 26)

Change of use of highway to mixed use - highway and outdoor market.

7 Ifton Heath Former Primary School, Overton Road, Ifton Heath, St Martins - 17/01284/VAR (Pages 27 - 36)

Variation of Condition No. 1 attached to permission 15/00537/FUL to allow for the family to remain on site for a further temporary period of twelve months.

8 Appeals and Appeal Decisions (Pages 37 - 48)

9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 30th May 2017 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

North Planning Committee

25th April 2017

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 28 March 2017

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

2.00 - 4.33 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Arthur Walpole (Chairman)

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

76 Apologies for Absence

There were no apologies for absence.

77 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 28th February 2017 be approved as a correct record and signed by the Chairman.

78 Public Question Time

There were no public questions or petitions received.

79 Disclosable Pecuniary Interests

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

Councillor Paul Wynn declared his interest in relation to planning application 16/04784/VAR, variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site due to a perception of bias. Councillor Wynn stated that he would leave the table during consideration of the application.

Councillor Peggy Mullock declared her interest in relation to planning application 16/04784/VAR, variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site due to a perception of bias. Councillor Mullock stated that she would make a statement and then leave the table during consideration of the application.

80 **The Sawmills, Rhoswiel, Weston Rhyn, Oswestry, Shropshire (14/05708/OUT)**

The Principal Planning Officer introduced the outline application (access for approval) for mixed use residential development; creation of vehicular access; demolition of all existing buildings and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

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

- The allocated site within SAMDev indicated only twenty dwellings;
- The surrounding highways network could not accommodate the additional traffic that would be generated by the proposed development and compound existing problems in the area; and
- He believed b), detailed in paragraph 4.1.10 to be the closest solution to foul drainage issues.

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

- In many ways the site was a near perfect brownfield site;
- However there were concerns relating to highways it was hoped that serious attention would be given to ensuring highways matters were dealt with; and
- In addition to social housing, he would like to see some light industry being incorporated into the development.

Justin Paul Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate members, whilst supporting the development of the site for housing, expressed their concerns in relation to the safety of the proposed access to the site where visibility was reduced.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposals, in

accordance with the planning officer's recommendation and subject to an amendment to condition 1 to make access a matter reserved for later approval.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation subject to a legal agreement to secure affordable housing and subject to the conditions set out in Appendix 1 and amendment to Condition 1 to make access a matter reserved for later approval.

81 Site of Former Railway Station, Tern Hill, Shropshire (15/04373/FUL)

The Principal Planning Officer introduced the application for the erection of a workshop and amenity building and associated use of land as a haulage yard with external storage and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer read out additional comments that had been received from Sutton Parish Council.

Tim Greenwood, local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

Having considered the submitted plans and listened to the comments made by all of the speakers, members were satisfied that the concerns raised by local residents in relation to the potential impact on their residential amenity had been addressed by the Council's public protection officer and through a detailed set of conditions.

RESOLVED:

That delegated powers be given to the Head of Planning Services to grant planning permission subject to the conditions set out in Appendix 1 and any amendments considered necessary.

82 Proposed Residential Development, Land East Of 8A Moors Lane, St Martins Moor, Shropshire (16/03136/REM)

The Principal Planning Officer introduced the application for the approval of reserved matters pursuant to permission 14/01224/OUT for the erection of 2 dwellings and associated detached garages and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters which referred to the deletion of condition 1. The Principal Planning Officer also stated that conditions 4, 5, 7 and 8 could be deleted as they repeat conditions on the outline consent.

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

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

- He did not support the application as it was overdevelopment of the site, which was accessed by a narrow lane; and
- The sewerage system was inadequate.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the Officer's recommendation.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation subject to the conditions set out in Appendix 1 and the removal of conditions 1, 4, 5, 7 and 8.

83 Proposed Residential Development, Land East Of 8A Moors Lane, St Martins Moor, Shropshire (16/03137/REM)

The Principal Planning Officer introduced the application for the approval of all reserved matters pursuant to permission 13/05016/OUT for the erection of two detached dwellings and associated garages and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters which referred to the deletion of condition 1. The Principal Planning Officer also stated that conditions 4, 5, 7 and 8 could be deleted as they repeat conditions on the outline consent.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Steve Davenport as local ward councillor left the room, took no part in the debate and did not vote on this item.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the Officer's recommendation.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation subject to the conditions set out in Appendix 1 and the removal of conditions 1, 4, 5, 7 and 8.

84 Broughall Fields Farm, Ash Road, Whitchurch, TF8 7BX (16/04784/VAR)

In accordance with his declaration at Minute 79 Councillor Paul Wynn left the table, did not take part in the debate and did not vote on this application.

The Principal Planning Officer introduced the application for the variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters. During his presentation the Principal Planning Officer reported the need for an additional condition in relation to odour management, an amendment to condition 19 so that it referred to no more than one digester tank and the deletion of the first paragraph of condition 21. He confirmed that the applicant had made a voluntary contribution towards the costs of maintaining the highway but as this did not meet the tests for a Section 106 obligation advised Members this should not be given weight in the decision.

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

Councillor John Sinnott, on behalf of Whitchurch Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- The applicants were a large local employer with a national reputation who had spent a great deal researching the proposals and who would not want to risk their reputation;
- Requested that condition 15 be strengthened to protect against any potential for malfunction and to determine who the responsible body would be.

In accordance with her declaration at Minute 79, Councillor Peggy Mullock made a brief statement and then left the table, took no part in the debate and did not vote on this item due to perceived bias.

Nick Williams Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Principal Planning Officer responded to concerns raised by local residents, the Town Council and the local member, by confirming that with a robust set of planning conditions, as well as many other internal checks, operations at the site would be

very well managed to ensure that there would be no harmful effects on the environment or the residential amenity of those living near to the site. It was suggested that the local ward councillor be involved in the detailed wording of condition 15, relating to the amenity complaints procedure, to ensure that local concerns were addressed.

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the proposals.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, subject to a legal agreement delivering off-site landscaping and subject to the conditions set out in Appendix 1, amended as follows:

- An additional condition to require an Odour Management Plan;
- The local member to be consulted on any application to discharge of Condition 15;
- An amendment to Condition 19 to refer to no more than 1 digester tank; and
- The removal of the first passage from condition 21.

85 Proposed Residential Development Opposite School ,Kinnerley, Shropshire (16/04719/FUL)

(Councillor Arthur Walpole, as local member vacated the Chair. Councillor Paul Wynn as Vice-Chairman presided as Chairman for this item)

Councillor Roger Hughes left the meeting at this point and did not return.

The Principal Planning Officer introduced the application for the erection of residential development of 18 no. dwellings; formation of vehicular access, confirming that the application had previously been considered by the North Planning Committee at their meeting on 28th February 2017 and had been minded to refuse the application due to concerns relating to overdevelopment of the site which would have a negative impact on community cohesion.

Councillor Charles Green, on behalf of Kinnerley Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- Referring to the original permission for twelve dwellings it was confirmed that it was on this basis that the Parish Council had given their support to the application;
- Families would not be attracted to the proposed dwellings as some of them were too small; and

- The planning officer's comments made at paragraph 2.7 were qualitative and not supported by evidence.

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

During the ensuing debate some members expressed concerns in relation to overdevelopment of the site and the potential negative impact it might have on the character of the village of Kinnerley, however other members felt that the proposed development offered a variety of size and type of dwelling which were in keeping with the village and surrounding new developments.

Having considered the submitted plans and listened to the comments made by all of the speakers, members expressed their support for the officer's recommendation.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, subject to;

- The conditions set out in Appendix 1;
- The applicant signing a Section 106 Legal Agreement to secure two affordable dwellings.

86 Appeals and Appeal Decisions

The Committee thanked the planning and legal teams for their work in the area of appeals.

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Northern area as at 28th March 2017 be noted.

87 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday, 25th April 2017 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date
 North Planning Committee
 25th April 2017

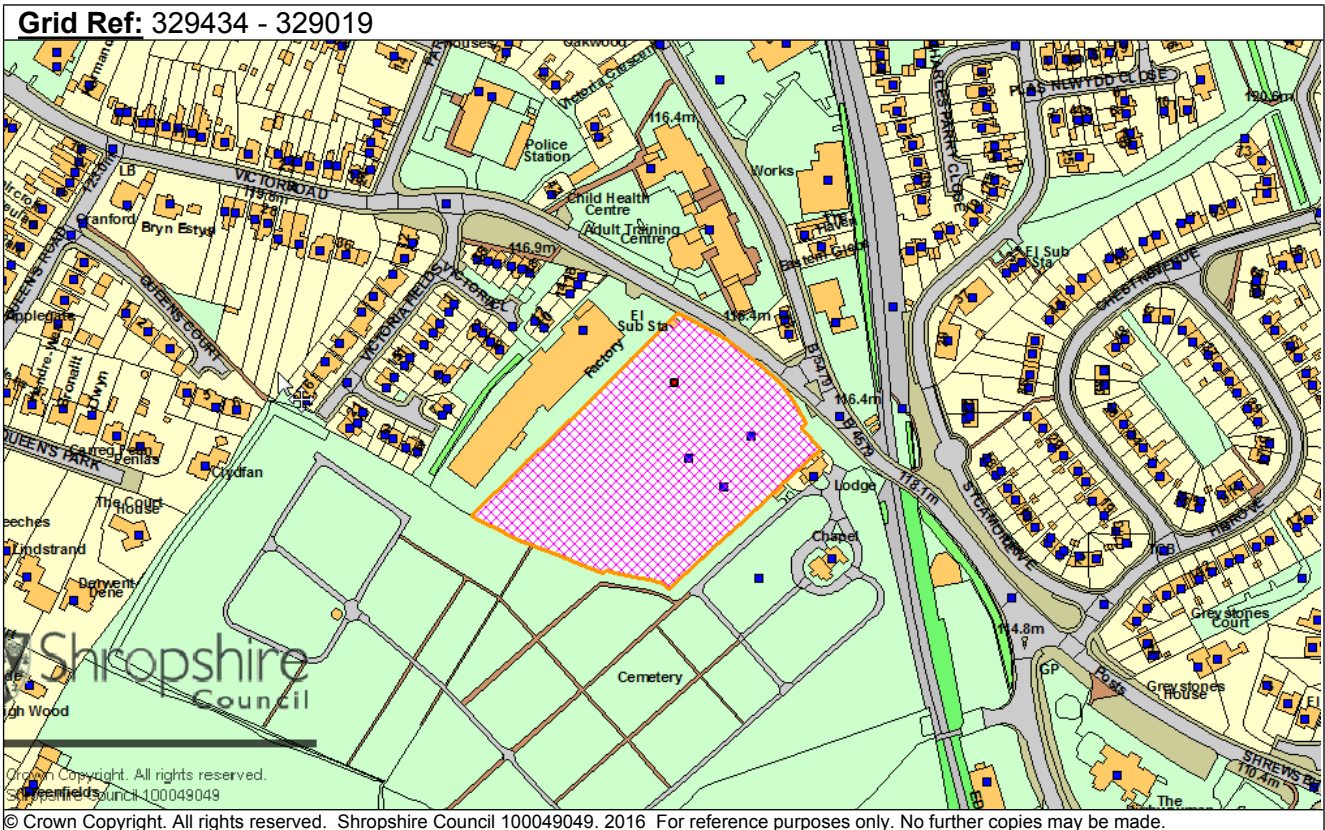
Item
5
 Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/05872/ADV	<u>Parish:</u>	Oswestry Town
<u>Proposal:</u> Erect and display 4 no. store billboard advertisement signs and 1 no. free standing billboard		
<u>Site Address:</u> Lidl 70 Victoria Road Oswestry Shropshire SY11 2HU		
<u>Applicant:</u> Lidl UK		
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk	



Recommendation:- Part Approved Part Refused subject to the conditions set out in Appendix 1 and the following reason for refusal:

The proposed free standing billboard advertisement is not considered to be acceptable when considered against the relevant considerations for advertisement consent Core Strategy policy CS6 and SAMDev policy MD2 as this advertisement board is considered to be of a scale which is visually harmful and prominent on the skyline and street scene.

REPORT

1.0 THE PROPOSAL

1.1 The application is for proposed signage for a new build Lidl food store. The proposal, as submitted, was for 4 externally illuminated billboard signs attached to the new food store and 1 non-illuminated, free standing, billboard sign within the car park. During the consideration of the application the scheme was revised to 3 signs attached to the building and the 1 in the car park. The application seeks consent for 5 years.

1.2 A separate, second, planning application has also been submitted for a second sign within the car park. This is being considered under application 17/00586/ADV.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application relates to the proposed Lidl store which was granted consent as part of a development for one food store and three non-food stores on the land previously occupied by JT Hughes car dealership in Oswestry.

2.2 The store is purpose built, appears two storey at the front with a sloping roof, sloping from south to north. The building is to be clad in composite panels with glazing to the front elevation. To the north-west of the site are semi-detached red brick houses, the cemetery lies to the south and east of the site with a stone wall between the site and the cemetery and mature trees within the cemetery site. Victoria Road runs along the north boundary of the site with office buildings and a Victorian terrace of houses opposite. Victoria Road joins Salop Road on the edge of the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council views are contrary to the recommendation from officers. The local member's view was sought but no comments have been received at the time of publishing the report. The matter was therefore discussed with the Chair of the North Planning Committee who confirmed that the Town Council has raised issues which are material planning considerations that are not overcome by negotiation or consultee comments. As such the Chair considers that the application should be determined by committee.

4.0 CONSULTATION RESPONSES

4.1 - Consultee Comments

4.1.1 **Oswestry Town Council** – Object to the application for the following reasons:

- The Council feels that the number of signs being proposed is excessive and will be to the detriment and disadvantage of town centre businesses. The Council feels that this is in contradiction to National Planning Policy to promote competitive town

centres that provide customer choice;

- The billboards will not be in keeping with the area and will dominate the visual appearance of the street and neighbouring area. It was also felt that such signage was not appropriate with the close proximity of the development in relation to the Towns Cemetery;
- Councillors also felt that given the new road layout and the creation of a traffic lighted junction that the signs could prove to be a distraction to drivers and affect the visibility as cars approach the junction;
- That Shropshire Council consider the appropriateness of the signage in accordance with their policy on billboard advertisement signs. Should no policy exist the Council feel that one should be developed.

- 4.1.2 **Highways** – No objection – subject to the development being constructed in accordance with the approved details and the recommended informatives.

The proposed signage is within the private curtilage of the site and is not considered likely to raise undue highway implications for passing motorists on the adjoining carriageway.

4.2 - **Public Comments**

2 neighbouring properties have been consulted and a site notice erected to notify the community of the proposal. No comments have been received as a result of this consultation.

5.0 **THE MAIN ISSUES**

- o Principle of development
- o Impact on visual amenity
- o Impact on public safety

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

- 6.1.1 The display of advertisements can only be controlled in the interests of ‘amenity’ and ‘public safety’. Policy CS6 of Core Strategy states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved.

- 6.1.2 The comments of the town council regarding the signage being detrimental to town businesses is not a material consideration to the current application for signs. The impact on the town centre vitality and viability from the proposed development was considered at the time the application for the retail units on this site were approved.

6.2 **Impact on visual amenity**

- 6.2.2 The application as amended proposes 3 advertisement billboards of 2.1m by 4.1m attached to the store all externally illuminated and 1 free standing billboard of 3.25m by 6.3m within the car park. The application seeks consent for a time period of 5 years.
- 6.2.3 Of the three adverts boards proposed attached to the building two are along the

rear (west) elevation and one is on the front (east) elevation, all are to be externally illuminated. The freestanding billboard is proposed to be located on the northern edge of the application site. All of the advert boards and the billboard would be used for hanging short term advertisement and the application is for the frames and structures rather than the adverts to be hung on them.

6.2.4 On the basis of the original submission the town council objected on the grounds of visual appearance and impact and also consider that the signage is not suitable given the proximity to the cemetery. The scheme was therefore amended to remove one of the boards from the west elevation and reduce the size of the east elevation board.

6.2.5 The concerns of the Town Council are noted, however it is officer's opinion that advert boards proposed attached to the food store are considered to be suitable for the size and location of the building and are standard advertisements for the occupier of this retail unit. The site sits within a wider area with other commercial uses and was approved as a retail area on a site which was previously occupied by a car sales garage. The proposed advertisement boards on the building are not considered to be significantly harmful to the character of the area or the setting of the cemetery and the building on the entrance to the cemetery. Furthermore, it is considered that the amount and level of illumination proposed will not be detrimental to visual amenity.

6.2.7 However, the free standing billboard is considered to be large and obtrusive and would be prominent on the street scene. The board projects above the wall against which it is located and from the junction of Victoria Road and the B5479 the board appears to be high on the skyline with the buildings behind being of a similar height. The scale of this advertisement is considered to be harmful to the visual amenity of the immediate area and wider street scene and is therefore not considered to be acceptable when considered against the relevant considerations for advertisement consent Core Strategy policy CS6 and SAMDev policy MD2.

6.3 **Affect on public safety**

6.3.1 As with character of area the Town Council comments are noted, however the advice of the Council Highway Consultant is that the proposed advertisements will not pose a safety risk to pedestrians or road users as they are not positioned where they would interfere with the normal activities of members of the public, or likely to be distracting to motorists.

7.0 **CONCLUSION**

7.1 The proposed signage attached to the building is deemed to be acceptable in terms of its siting, scale, design and materials and is considered to accord with the relevant policy criteria as set down within the NPPF and Core Strategy Policy CS6 and is therefore recommended for approval.

7.2 However the free standing advertisement is not considered to be acceptable when considered against the relevant considerations for advertisement consent Core Strategy policy CS6 and SAMDev policy MD2 as this advertisement board is considered to be of a scale which is visually harmful and prominent on the skyline and street scene.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

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

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

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **Financial Implications**

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

10. Background

Relevant Planning Policies

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

Relevant planning history:

16/02925/AMP Non-material amendment attached to planning permission 14/05635/FUL - Minor revision to proposed elevations GRANT 6th July 2016

16/02137/ADV Erect and display one branded totem sign to site entrance off Victoria Road and two proposed fascia signs to north east and south east elevation of store GRANT 5th July 2016

14/05635/FUL Erection of A1 retail store and 3 no. retail units, car parking areas, services and new vehicular access following demolition of all existing buildings GRANT 30th September 2015

OS/09/15868/OUT Erection of food only retail store (Use Class A1) with associated decked car parking areas, provision of new roundabout, vehicular access to site and new access to cemetery, landscaping provision. All after demolition of existing buildings REFUSE 11th

OS/07/15026/ADV Provision of illuminated fascia signs, entrance panel and pylon sign GRANT 19th July 2007

OS/05/13836/ADV Provision of illuminated and non-illuminated signage GRANT 10th August 2005

OS/05/13732/FUL Proposed new cladding to elevations GRANT 29th April 2005

OS/04/13306/ADV Provision of illuminated fascia signs and pylon sign GRANT 17th September 2004

OS/03/12988/FUL Change of use from DIY/garden centre retail to car showroom GRANT 25th March 2004

OS/03/12512/FUL Removal of temporary building and erection of new building for vehicle sales GRANT 14th May 2003

OS/00/11014/FUL Change of use of land and Extension to body repair workshop GRANT 5th June 2000

OS/98/10450/ADV Provision of gantry signs, fascia signs and pylon sign GRANT 16th December 1998

OS/98/10314/ADV Provision of replacement signs GRANT 13th August 1998

OS/96/09632/FUL Extension to existing body shop GRANT 17th December 1996

OS/95/9212/ADV Provision of internally illuminated signs and pylons GRANT 10th December 1975

OS/92/9212 Provision of illuminated signs and pylons GRANT 14th December 1995

OS/91/7557 Erection of car wash screen GRANT 6th November 1991

OS/91/7442 Illuminated canopy and shop fascia signs, pole sign and secondary signs GRANT 31st July 1991

OS/91/7662/FUL Demolish existing office, convert stores to reporting office and construction of vehicle park on shaded area GRANT 26th February 1992
OS/89/6357 Demolition of existing workshops and forecourt canopy and construction of new forecourt canopy, shop and car wash

with provision of new petrol pumps and installation of additional petrol tanks GRANT 15th September 1989
OS/88/5501 Extension for a new body shop GRANT 17th May 1988
OS/86/4791/FUL Change of use to a garden centre with retail sales of DIY products and furniture and associated products GRANT 13th February 1987
OS/87/5074/ADV Display of a non-illuminated logo sign on the front elevation GRANT 31st July 1987
OS/86/4541/FUL Change of use to a garden centre with retail sales of DIY products and furniture and associated products. REFUSE 7th July 1986
OS/85/4087/ADV Display internally illuminated fascia sign and free standing pylon sign GRANT 9th May 1985
OS/84/3791 Change of use - building and land to car sales, workshop etc. GRANT 20th August 1984
OS/78/8813/FUL Erection of a balcony to first floor living accommodation GRANT 13th September 1978
OS/78/8601 Petrol pump canopy, petrol tank and change of use of part of garage to shop GRANT 19th June 1978
OS/75/6621/FUL Conversion of offices to living accommodation GRANT 10th December 1975
OS/75/6295/FUL Erection of an extension to existing shop premises GRANT 30th July 1975
OS/75/6675/FUL Erection of a building to house central heating unit GRANT 14th April 1976
OS/74/5128 Office block, self service shop and vehicular access GRANT 2nd October 1974
OS/74/126 Erect a building for manufacturing steel framed buildings GRANT 10th July 1974
OS/74/5255 Alterations to existing access GRANT 12th June 1974
OS/A/2134 Repositioning existing sign GRANT 31st March 1965
OS/A/2135 Illuminated sign GRANT 31st March 1965
OS/64/2253 Erect private garages, office and store GRANT 30th September 1964
OS/17149 Installation of milk vending machine GRANT 3rd February 1959
OS/A/1100 Illuminated advertisement GRANT 30th September 1958
OS/A/825 Illuminated forecourt sign GRANT 30th April 1957
OS/10821 Temporary - steel framed garage GRANT 2nd August 1955
OS/10270 Additions and erect showroom and lock-up garages GRANT 3rd May 1955
OS/A/518 Illuminated forecourt sign GRANT 29th March 1954
OS/8398 Resiting existing petrol pump, erect 3 new pumps and attendant kiosk and alter existing access GRANT 29th March 1954
OS/7938 O/a install petrol pumps and erect repair garage office GRANT 21st November 1953

Appeal

11/01872/REF Erection of food only retail store (Use Class A1) with associated decked car parking areas, provision of new roundabout, vehicular access to site and new access to cemetery, landscaping provision. All after demolition of existing buildings DISMIS 6th March 2012

11. ADDITIONAL INFORMATION

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Duncan Kerr

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Reason for refusal:

The proposed free standing billboard advertisement is not considered to be acceptable when considered against the relevant considerations for advertisement consent Core Strategy policy CS6 and SAMDev policy MD2 as this advertisement board is considered to be of a scale which is visually harmful and prominent on the skyline and street scene.

Conditions

STANDARD CONDITION(S)

1. 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.

2. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

3. No advertisement shall be sited or displayed so as to—
(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

4. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

5. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

6. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: The above conditions numbered 1-5 are standard conditions under the Town and Country Planning (Control of Advertisements) Regulations 2007.

7. This express consent shall expire at the end of a period of 5 years from the date of this consent.

Reason: To comply with paragraph 14 (7) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and in the interests of amenity.

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Committee and Date
 North Planning Committee
 25th April 2017

Item
6
 Public

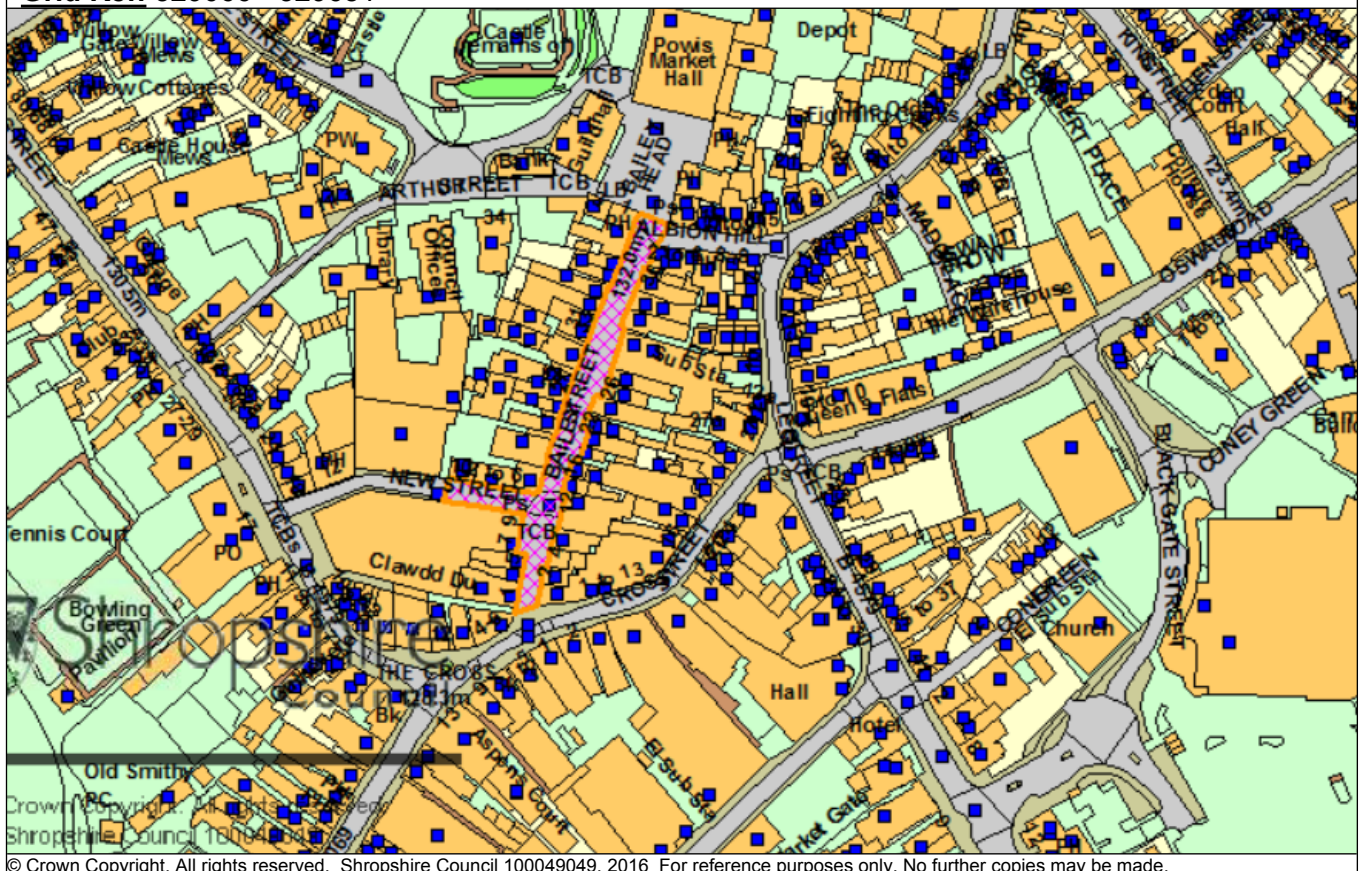
Development Management Report

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

Summary of Application

Application Number: 17/00985/FUL	Parish: Oswestry Town
Proposal: Change of use of highway to mixed use - highway and outdoor market	
Site Address: Bailey Street And New Street Oswestry Shropshire	
Applicant: Oswestry Town Council	
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk

Grid Ref: 329066 - 329651



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

1.1 The application is lodged by Oswestry Town Council and is for the change of use of the highway to mixed use as highway and outdoor market at Bailey Street and New Street within Oswestry town centre.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site area covers around 0.15 hectares to include the whole of Bailey Street, a paved pedestrian area extending from Bailey Head at its northern end down to Cross Street, and just under half of New Street (as far as 10 New Street), which connects Bailey Street with Willow Street.

2.2 The affected streets are both lined with a mix of shopping and commercial buildings, some with residential space above.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is on land owned by Shropshire Council and is not considered to be a statutory function of the Council as such the application is required to be heard by planning committee in accordance with the scheme of delegation.

4.0 Community Representations**4.1 Consultee Comments**

4.1.2 **SC Drainage** – no comment from the drainage and flood risk perspective.

4.1.3 **SC Archaeology** – no comment to make with respect to archaeological matters.

4.1.4 **SC Trees** – no objection.

4.1.5 **SC Conservation** - no objection from a Historic Environment perspective.

4.1.6 **SC Highways** – none received at time of writing report but any update received in the meantime will be reported to committee.

4.1.7 **SC Public Protection** – no objection subject to informatives ensuring that relevant Pavement Permit is obtained, any businesses selling food are registered as a food business and any site users are aware of any traffic restrictions which may be in place to protect the safety of highways users and reduce congestion.

4.2 - Public Comments

4.2.1 None received as result of application. However, information submitted with application explains that Town Council consultation was carried out with traders in Bailey Street and New Street, the Oswestry Chamber of Commerce and the Oswestry BID group. Responses were reported to have been limited but generally supportive of the proposals.

5.0 THE MAIN ISSUES

- Principle of development
- Background to Proposal
- Impact on Town Centre
- Heritage Impact

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Core Strategy Policy CS 15 (Town and Rural Centres) is applicable and states:

6.1.2 ‘The Market Towns of Oswestry; Market Drayton; Whitchurch; Ludlow and Bridgnorth will act as principal centres to serve local needs and the wider service and employment needs of communities within their respective spatial zones. Appropriate convenience and comparison retail, office, and other town centre uses will be permitted to support these roles.’

6.1.3 Further to CS15 Primary Shopping Areas and Primary and Secondary Frontages are identified within SAMDev and both Bailey Street and New Street are located within the Primary Shopping Area as identified on the Oswestry Inset Map.

6.1.4 SAMDev Policy MD10a (Managing Town Centre Development) states that within the Category C centres (Shrewsbury & Oswestry) there is a presumption in favour of Retail proposals (Use Class A1) in ground floor premises within the Primary Shopping Areas.

6.1.5 Section 2, paragraph 23 of the National Planning Policy Framework (Ensuring the Vitality of Town Centres) is also relevant to the consideration of this application and states:

6.1.6 ‘Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:

- Recognise town centre as the heart of their communities and pursue policies to support their viability and vitality.....
- Promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- Retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive...
- Where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.’

6.1.7 Therefore, subject to other criteria the general principle of an extension to the existing market is deemed to fall generally in line with the above policy framework relating to Oswestry town centre.

6.2 Background to Proposal

6.2.1 The Planning Statement provides the history and background to the proposal and explains that the Town Council is working closely with the Business Improvement District (BID) Project to raise the quality of the town centre retail offer, in order to

attract new visitors and improve the town centre generally.

6.2.2 The current Wednesday and Saturday outdoor markets on Horsemarket and Bailey Head are stated to have been severely affected by the increasing trend for internet shopping and other competition. This is also considered to have had a knock on affect in terms of the number of customers using the Indoor Market on Bailey Head.

6.2.3 It is reported that a Mary Portas project in the town centre found that the town centre needed to be revitalised and that one way of doing this could be to increase activity within the streets in order draw in additional shoppers.

6.2.4 In response to this conclusion the Town Council has trialled an 'Artisan' Market on Bailey Street and New Street on the last Friday of each month since June 2016 which has proved popular. It is claimed that this has been successful in drawing shoppers into the full length of Bailey Street, Bailey Head and the indoor market.

6.2.5 Under permitted development rights the number of the markets held is restricted to 14 a year and therefore the submitted proposal seeks to allow the outdoor market to extend into Bailey Street and New Street, throughout the year.

6.3 **Impact on Town Centre**

6.3.1 It is stated that the days of operation are generally proposed to be confined to Wednesdays and Saturdays, between 9am and 5pm, and the same times every last Friday of the month but that a degree of flexibility would be required to allow the Town Council to operate a market at other days and times, such as during special events, or during bank holidays.

6.3.2 This aspect could be controlled by way of a condition restricting the days and hours of operation whilst the flexibility for the market to operate on an additional 14 days in any calendar year would be allowable in any case under permitted development rights.

6.3.3 The proposed stalls would comprise the use of normal market stalls together with some 'Gazebo' type stalls.

6.3.4 A block plan is submitted which indicates the likely position of the stalls from a point near to the top of Bailey Street, around the area of the Age UK shop and Kenyan Schools Project, down to the junction with Cross Street and into New Street to extend as far as the area between Home Bargains and Grape Tree.

6.3.5 However, some flexibility would be required to allow for changes in circumstances such as vacant shop units, or to take account of special events on Sundays and Bank Holidays, when shops in the area might be closed or where works are being carried out to premises, involving scaffolding etc.

6.3.6 The Statement explains that the proposed positioning is to take account of the following:

- Maintain safe and free movement of pedestrians throughout the street;
- Allow safe access for emergency vehicles;
- Avoid blocking the window displays and entrances to existing shops;

- Avoid those cafes with approved outside seating areas;
- Avoid blocking access to the existing telephone box and areas of fixed seating.'

6.3.7 With regard to the temporary parking of Traders' delivery vehicles and the setting up and breaking down of stalls the extended area involved may require the provision of vehicular access for Traders from New Street, Bailey Head and Cross Street.

6.3.8 In cases where traders are unable to park by their stalls it is noted that arrangements are already in place to use existing loading bays such as those in Cross and transfer goods by hand cart. It is intended that stalls would be set up by the Council by 8am and that stall holders would be set up in advance of 9am. The Town Council would be responsible for clearing stalls and removal of rubbish.

6.3.9 A lettings policy is proposed to be drawn up and adopted by Town Council to ensure no duplication or conflict over the type of goods being sold with the existing shops on Bailey Street and New Street.

6.4 **Heritage Impact**

6.4.1 The whole of the proposal site is located within the town centre conservation area and the Council's Conservation team have been consulted. No objection is raised but the Conservation Officer has indicated that the quality and colours of the stalls themselves and potentially any permanent lighting and signage which may arise from this would need careful consideration. It is therefore suggested that any signage is dealt with separately and in consultation with SC conservation.

6.4.2 In the event that the application is approved it is recommended that a condition could be attached to ensure the use of traditional market stalls (i.e. demountable pole structures erected on site) or open table top type stalls and to safeguard against large numbers of motorised or trailer self-contained retail units or fairground type facilities such as bouncy castles in order to protect the amenity of the area.

6.4.3 Subject to the above details, it is considered that the anticipated increase in visitor and shopper numbers could contribute to the overall vitality and viability of the town centre and as such could help to secure the upkeep of existing premises to the benefit of the character and appearance of the designated area as a whole.

6.4.4 The Council's Trees Officer has been consulted on account of existing trees located within Bailey Street but raises no objection.

7.0 **CONCLUSION**

7.1 It is considered that the proposed extension of the outdoor market into Bailey Street and New Street would be beneficial to the future of the indoor and outdoor markets and for trade within the wider town centre in line with local and national policy relating to town centres. The proposal appears to be generally well received by residents and no public protection or heritage objections have been raised. Therefore the application is recommended for approval in accordance with CS15 and SAMDev Policy MD10a.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of

being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Relevant planning history:

No relevant history

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Duncan Kerr
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).

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

2. The market use shall relate solely to the sites edged red on the submitted location plan, received by the Local Planning Authority on 2nd March 2017 and no market use including stalls, parking or storage shall take place on other parking areas outside of the defined areas

Reason: To define the permission for the avoidance of any doubt.

3. The outdoor market shall not operate and no stalls shall be unloaded/loaded and erected/dismantled, outside the hours of 7.00am to 7.00pm Wednesdays and Saturdays, and on the last Friday of every month. Additional occasional markets may be held on other days, such as during special events or during bank holidays, up to 14 times in any calendar year.

Reason: To retain adequate weekday parking in the town and to safeguard the living conditions of nearby residents.

4. The market shall comprise solely of traditional market stalls (i.e. demountable pole structures erected on site), open table top type stalls and no more than four motorised or trailer self-contained retail units of which there shall be no more than one of the lorry/articulated/rigid box van type. There shall be no fairground type facilities such as bouncy castles.

Reason: In the interests of the visual and residential amenities of the area.



Committee and Date
 North Planning Committee
 25th April 2017

Item
7
 Public

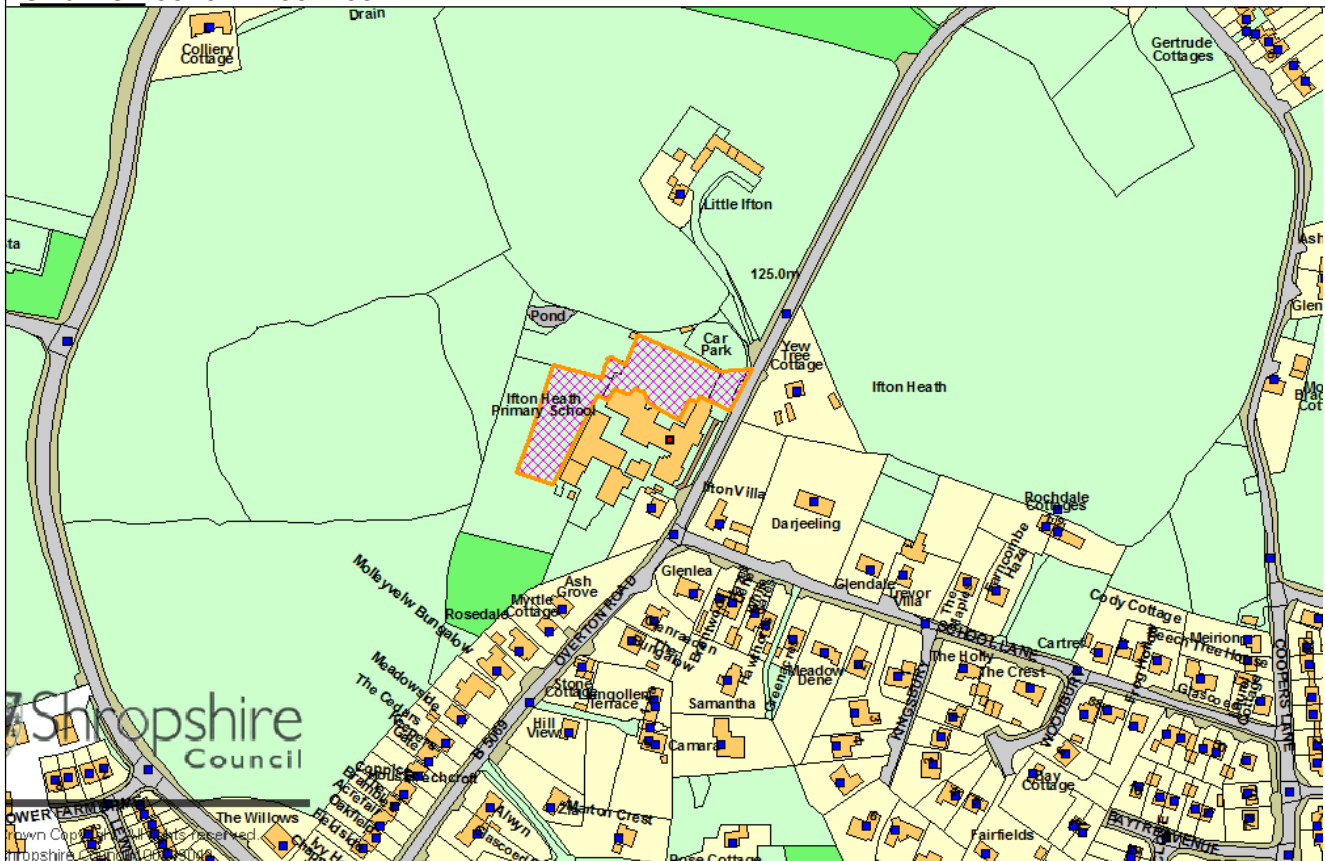
Development Management Report

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

Summary of Application

<u>Application Number:</u> 17/01284/VAR	<u>Parish:</u>	St Martins
<u>Proposal:</u> Variation of Condition No. 1 attached to permission 15/00537/FUL to allow for the family to remain on site for a further temporary period of twelve months		
<u>Site Address:</u> Ifton Heath Former Primary School Overton Road Ifton Heath St Martins Shropshire		
<u>Applicant:</u> Shropshire Council		
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk	

Grid Ref: 332617 - 337165



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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks consent for variation of condition 1 on planning permission 16/02096/VAR, which itself was a variation of condition 1 on planning permission 15/00537/FUL. The original condition 1 restricted the use of the site by Travelling Show people for siting of caravans for a period of 12 months. The previous variation requested a further 9 months on top of the original 12 months. The current application seeks consent to extend the time period again for a further 12 months. A planning statement has been submitted with the application which seeks to provide justification for the additional period.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site consists of the hard surfaced play area and grassed field to the north and west of the school buildings at Ifton Heath Primary school which is no longer used as a school and has been out of use since the closure of the school. The caravans and associated vehicles have been sited on the hard standing for the past 21 months. No structures or additional hard surfacing is proposed.

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

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The minutes of the North Planning Committee meeting dated 12th May 2015 required any application for extension to the temporary period being considered at that time to be determined by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 **Consultee Comments – Please note** the consultation period expires on the 18th April. Any additional comments will be presented to members at the meeting.

4.1.1 **St Martins Parish Council** – No comments received at the time of writing the report. The consultation period expires on the 18th April. Any additional comments will be presented to members at the meeting.

4.1.3 **Council Highway Officer** – No comments received at the time of writing the report. The consultation period expires on the 18th April. Any additional comments will be presented to members at the meeting.

4.2 Public Comments

4.2.1 A site notice has been erected and 2 neighbouring properties directly consulted on this application. No comments have been received as a result of this consultation. However, the consultation period expires on the 18th April. Any additional

comments will be presented to members at the meeting.

5.0 THE MAIN ISSUES

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

6.0 OFFICER APPRAISAL

6.1 Policy & Principle of Development

- 6.1.1 This application is to extend the use of a temporary site for a single family of travelling show people for a period of up to 12 months, which is in addition to the two previously approved consents which total 21 months. Travelling show people are defined in the Planning Policy for Traveller Sites (PPTS) (2012) as being: *“Members of a group organised for the purpose of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or family’s or dependant’s more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently but excludes Gypsies and Travellers”* (as these are defined separately).
- 6.1.2 The principle of the use has been accepted by the granting of the original 12 month consent and the consent has already been extended once. The key issue is therefore whether a further 12 month occupation would be unacceptable.
- 6.1.3 The status of the Stokes family as travelling show people was also accepted as part of the previous consents. The current application is for the same occupiers Mr Stokes and his family which consist of his wife, brother and two sons and their families. The accommodation requirements are therefore 5 caravans and therefore the 4 plots proposed for travelling show people within the North West of Shropshire within policy CS12. It is considered that there is an identified need for the site for Mr Stokes and his family and that no further evidence is required of need. Furthermore, no questions have been raised about the status of Mr Stokes and his family as travelling show people who had previously been living on the land adjacent to the Smithfield Livestock Market in Oswestry for a number of years but had to relocate due to approval for re-development of that site.
- 6.1.4 Members may have concerns that the previously granted consents were meant to allow the Council time to pursue an alternative site for permanent occupation and that the applicant is now seeking a further 12 months. However, members may also recall a report to February committee for a site at Drenewydd which was proposed for either gypsy families or the Stokes family. The Drenewydd site was refused planning permission and as such one of the potential sites for this family is not considered to be suitable or available. Alternatives are being considered by the Council with a view to finding the Stokes family a permanent site, however further time is required. Members should be reassured that alternatives are still being

sought and there is no intention for there to become permanent occupancy of the Ifton Heath school site.

- 6.1.5 With regard to disposal of the school the Council are not yet able to sell the site as this has not been agreed with the Education Funding Agency. As such the site is not yet marketable as a development site for alternative use or redevelopment and the temporary occupation by the travelling show people has provided a degree of security.
- 6.2 **Suitability of proposed site**
- 6.2.1 The application site is on the edge of St Martins using part of the ground of the former Ifton Heath Primary School. For planning purposes the site is considered to be countryside as it lies outside, yet adjacent to, the development boundary for St Martins. However, policy CS12 (Gypsy and Traveller Provision) supports development for this use close to the Community Hubs and Clusters such as St Martins. The policy does not prevent or resist this form of development outside of the development boundaries. Policy CS5, which controls development in the countryside, provides an exception for housing which is to meet an identified need, including the needs covered by policy CS12.
- 6.2.2 The site is adjacent to the primary school buildings and opposite existing housing. Although it is on the edge of the built development it is not considered to extend the village into the open countryside. There is an established hedge boundary around the school boundaries and the application site does not extend beyond the hedge. The proposal is for the continued siting of the caravans and associated vehicles on the hardstanding which was previously used as the school playground. The use of this part of the site means that no further hardstanding is required and therefore no built development is required to enable the occupation of the site for a further 12 months.
- 6.2.3 Although this does mean that the caravans and associated vehicles are visible from the Overton Road, which runs past the site, they have been located at the rear of the hardstanding and as such are set back into the site. It is Officers opinion that the layout has been undertaken in an appropriate manner which provides security and natural surveillance of the site and access and as such is acceptable and does not result in any significant harm to the character of the area.
- 6.2.4 Concern had previously been raised about the fair equipment and vehicles being on site. Mr Stokes has confirmed that the fairground equipment spends most of the year being moved from fair to fair and it is not within his interest to have equipment sat around unused and not making money. As such it is likely that for the majority of the time that there will not be any fair equipment on site. Although some equipment has recently been on site this is not a regular occurrence and the equipment will most likely all soon be out travelling between fairs and shows.
- 6.2.5 It is considered that the development of this site as proposed would meet the sustainable criteria in paragraph 11 of the PPTS. The site provides the opportunity to promote integrated co-existence between the occupants and the community; although only for an additional 12 months it will provide the occupants with a continuation of their settled base for a further 12 months and enable the family to

continue to access health services and schools which they have been using during their occupation of the livestock market site.

6.3 **Layout of site, scale and design of buildings**

6.3.1 Policy CS12 also requires all developments to incorporate suitable design and screening and have suitable access and areas for manoeuvring and parking. Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.

6.3.2 As noted above the caravans have been laid out on site at the rear of the existing hardstanding in a row, end on to the road. The site is already enclosed with security fencing on the roadside and a hedge on the north boundary with the school buildings to the south. The land between the caravans and the roadside fence is available for parking and manoeuvring. No built development is proposed. The caravans provide all of the accommodation requirements for the family, kitchens and bathrooms within the units without the need for washrooms.

6.3.3 Policy CS12 requires all gypsy and traveller developments to incorporate suitable design and screening and the PPTS requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. The site is already enclosed with fencing and hedge boundary limiting the view of the development from the open countryside beyond the village. The current application for temporary use, does not propose any additional fencing or boundary treatments and it is considered that the existing boundary and siting provides sufficient screening and an appropriate layout so as not to result in significant adverse impacts.

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

6.4.1 Paragraphs 12 and 23 of the PPTS states that when considering the suitability of a site regard should be had to the scale of the nearest settled community. As noted above St Martins is being promoted as a Community Hub, the third tier in the settlement hierarchy below Shrewsbury and the Market Towns. It is one of the larger villages in the north west of Shropshire and has a number of services and facilities. The proposals for a travelling show people's yard for one family, providing up to 5 plots, would not therefore dominate the settlement.

6.4.2 The nearest dwelling to where the caravans have been positioned is Yew Tree Cottage which is opposite the entrance to the site and is approximately 35 metres from the boundary fence of the site and therefore further from the position of the caravans. The distance will ensure that there is no loss of privacy and will also reduce the potential for light pollution providing the lighting is provided appropriately to not spill beyond the site. All other surrounding properties are further from the application site and therefore the amenities of existing residents would not be adversely affected by the development. The Planning Department is not aware that any complaints have been raised during the previous 21 months occupation of the site by the Stokes family and therefore there is no evidence of any adverse impact.

6.4.3 With regard to the impact from traffic movements regard has to be had of the previous use of the site as a school which will have had associated traffic, large number of cars dropping off and collecting children, large delivery vehicles, buses

to transport for trips and also the general noise of the use as a school and playground. Regard also should be given to the confirmation that for the majority of the additional 12 month period applied for the fair equipment, and therefore the larger vehicles used to tow the equipment is off site travelling between fairs. As such it is considered that noise from traffic would be limited to the traffic associated with the occupation of the 5 residential caravans and as such would be a limited impact.

6.5.4 Overall it is considered that the use of the site, as laid out, for 5 caravans and associated traffic for occupation by a single family would not result in unacceptable loss of amenity for the residents of the neighbouring properties.

6.6 Access, highway and drainage issues

6.6.1 The site is served by a single access which was previously considered acceptable for the occupation of the site and there is no justifiable reason to consider that the access would not remain suitable for use for an extra 12 month period. The access, which previously served as access to the school, provides both vehicular and pedestrian access off Overton Road.

6.6.2 The caravans are sited on existing hard standing and as such will not create any additional surface water run-off. The agent for the applicant has confirmed that the caravans are not connected to the mains drainage system but are using their own internal facilities with a contract for emptying the systems. This therefore provides a form of private foul drainage and therefore no additional pressure on the existing foul or surface water drainage system.

7.0 CONCLUSION

7.1 Overall the development is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy, the site is close to the proposed community hub of St Martins and as such is close to a sustainable settlement. The scale of the development and the temporary nature of the current application is considered to be acceptable and would not result in any harm to the character of the area furthermore the proposed use of this site would not result in harm to the amenities of nearby residents given the distance of existing properties from the site.

7.2 The unmet need for a site for travelling show people within Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed harm in many cases.

7.3 In the case of this application it is officers' opinion that there is no harm resulting from the continued use of the site for a further 9 months for the single family and therefore that there is no grounds on which to refuse consent.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

hearing or inquiry.

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

10. **Background**

Relevant Planning Policies

National Planning Policy Framework

Planning Policy for Traveller Sites

CS12 - Gypsies and Traveller Provision

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt
 CS18 - Sustainable Water Management
 MD2 - Sustainable Design
 MD7A - Managing Housing Development in the Countryside

Relevant planning history:

15/00537/FUL Change of use of part of former school site to provide temporary residential site for single travelling showpeople family for a period of up to one year GRANT 14th May 2015
 16/02096/VAR Variation of Condition No. 1 attached to Planning Permission 15/00537/FUL dated 14 May 2015 to allow for the family to remain on site for a further temporary period of nine months GRANT 17th June 2016

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Steven Davenport

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

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

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

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

Reason: In the interests of visual amenities.

5. This consent does not permit the commercial operation or storage of any of the travelling show equipment from the application site.

Reason: To protect residential and visual amenities.

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<u>Committee and Date</u>
North Planning Committee
25 th April 2017

<u>Item</u>
8
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 25th April 2017

Appeals determined

LPA reference	16/02516/REF
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr T Evans – C/O Mr T Mennell
Proposal	Outline application (all matters reserved) for the erection of one dwelling and garage utilising existing underground reservoir construction as domestic basement
Location	Former Reservoir To The North Of Shawbury Road Wem Shropshire
Date of appeal	03.01.17
Appeal method	Written Representations
Date site visit	
Date of appeal decision	28.03.17
Costs awarded	
Appeal decision	DISMISSED

LPA reference	17/02517/REF
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr D Carissimo
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Building A Rose Cottage Prees Green Whitchurch
Date of appeal	04.01.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	31.03.2017
Costs awarded	
Appeal decision	DISMISSED

LPA reference	17/02518/REF
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr D Carissimo
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Building B Rose Cottage Prees Green Whitchurch
Date of appeal	04.01.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	31.03.2017
Costs awarded	
Appeal decision	DISMISSED

Appeal Decision

Site visit made on 28 February 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 28 March 2017

Appeal Ref: APP/L3245/W/16/3163480

Reservoir (covered), Shawbury Road (B5063), Nr. Preston Brockhurst, Wem, Shropshire

- 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 Thomas Evans against the decision of Shropshire Council.
 - The application Ref 16/02327/OUT, dated 26 May 2016, was refused by notice dated 3 August 2016.
 - The development proposed is a detached house and garage, utilising existing underground reservoir construction as domestic basement.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline, with all matters reserved for future consideration. I have dealt with the appeal on this basis. Plans were submitted with the application indicating the access, layout and elevations of the proposal. I have considered these plans on the basis that they are for illustrative purposes only.

Main Issues

3. The main issues are as follows:
 - whether the proposal would accord with the Council's housing strategy; and,
 - the effect of the development on highway safety.

Reasons

Housing Strategy

4. The development plan comprises the Shropshire Council Adopted Core Strategy (CS) 2011 and the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015.
5. Policies CS1 and CS4 of the CS state that 35% of the Council's housing provision during the plan period of 2006-2026 will be provided within the rural area through a sustainable "rural rebalance" approach. These will be predominantly focused within identified Key Centres, Community Hubs and Community Clusters. Policy MD1 of the SAMDev identifies the market towns, key centres, community hubs and community clusters as prime locations for

- sustainable development. The appeal site is not located within any of these settlements. Therefore, it is considered to fall within the open countryside.
6. In addition to allocated sites, Policy MD3 of the SAMDev also supports other sustainable housing development. Paragraph 3 of Policy MD3 goes on to state that where settlement housing guidelines appear unlikely to be met, additional sites outside settlement development boundaries may be acceptable. As set out in the first paragraph to the policy, it should not be read in isolation from other policies, including Policies CS2, CS3, CS4, CS5, MD1 and MD7a.
 7. Policy CS5 of the CS allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities and provides a list of particular development that it relates to. The proposal would not fall within any of these developments. Policy MD7a of the SAMDev, goes on to further state that open market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, whilst Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for a single, open market dwelling it would fail to accord with Policies CS5 and MD7a.
 8. The Council confirm that they have a five year supply of deliverable housing land, which the appellant has not disputed. The above policies are relevant to the supply of housing and therefore, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework), they are up-to-date. Furthermore, these policies are consistent with the Framework. Accordingly, I attribute them full weight.
 9. I therefore find that the proposal would fail to accord with the Council's housing strategy embodied in Policies CS1, CS4 and CS5 of the CS and Policies MD1, MD3 and MD7a of the SAMDev. In addition, it would fail to accord with the objectives of the Framework.
 10. The Council also cite CS9 of the CS in their reasons for refusal. However, there is no evidence before me that the proposal would conflict with this policy. In addition, they also cite Policy CS11 of the CS. The Council have confirmed that they are no longer seeking affordable housing contributions from the proposal and therefore I do not find that there is any conflict with this policy. Furthermore, the appeal site is not within Wem and therefore I do not find that Policy S17 of the SAMDev is relevant in this instance.

Highway Safety

11. This stretch of the B5063 is derestricted. The Council confirms that at the point of the existing access to the site vehicles tend to drive at fast speeds. The observations I made during my site visit support this view. Whilst the stone wall to the front of the site is set back slightly from the highway, visibility in both directions is very restricted. The Council raise concern that visibility in the easterly direction could be unsatisfactory even if the wall and pillar were to be set back further into the site. I note that a request for further information from the appellant regarding this issue was requested but was not provided.
12. I note that the matters of access have been reserved and the appellant confirms that satisfactory access could be achieved. However, based on the

evidence before me and my own observations on site, I am not convinced that satisfactory visibility could be achieved in the easterly direction.

13. I find therefore that it has not be demonstrated that the proposal would not result in severe harm to highway safety. As such, it would be contrary to Policy CS6 of the CS, which seeks to ensure that development is designed to be safe.

Planning Balance

14. A key principle of the National Planning Policy Framework (the Framework) is that it promotes the presumption in favour of sustainable development. However, this presumption does not exist outside paragraph 14 of the Framework. Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental.
15. The construction of the dwelling would provide support for the construction industry by way of securing construction jobs and would utilise building material suppliers. In addition, the occupants of the dwelling would support local shops, services and facilities. Furthermore, a CIL payment would contribute towards local infrastructure. However, given the scale of the development, these benefits would be limited. Nevertheless, they would weight in favour of the proposal.
16. The provision of a dwelling would make a positive contribution to the supply of housing in Shropshire and its occupants would become part of the local community. In addition, there is no evidence before me of existing crime problems in the area and given the lack of any immediate neighbouring properties I am not persuaded that the dwelling would discernibly improve security in the area. Again, whilst this weighs in favour of the proposal, given its scale, its benefit would be limited.
17. The appellant also states that it would make a contribution towards affordable housing. However, the Council confirm that they are no longer seeking such a contribution. Therefore this matter does not attract any weight.
18. With regards to the environment, paragraph 17 of the National Planning Policy Framework (the Framework) encourages the effective use of land by reusing land that has previously been developed, provided that it is not of high environmental value. The appeal site comprises a square parcel of open land which is enclosed by a stone wall on all sides. There is an existing gated entrance providing access directly off the B5063. At the time of my site visit the site was largely overgrown and appeared to be used informally for the small scale storage of stone and building waste. The appellant's case centres on the appeal site being previously developed land as it was previously used as a reservoir. From the evidence before me, it is not clear what the reservoir was used in connection with, although the Parish Council suggests that it might have originally been used for agricultural purposes.
19. The glossary to the Framework sets out the definition of previously developed land. It explicitly excludes land that was previously developed but where the remains of the permanent structure have blended into the landscape in the process of time.
20. The reservoir itself is subterranean. The only readily visible remnants above ground is the perimeter wall. Whilst there are also concrete tops, pipes and

manholes within the site these are at ground level and are largely overgrown. The site is surrounded by open, verdant fields which are interspersed by hedgerows. The stone wall is similar in height to the surrounding hedgerows and does not appear incongruous in the rural setting. Overall, I find that the low profile of the perimeter wall and the lack of structures above ground results in the site blending in with the surrounding agricultural landscape. Consequently, I am not persuaded that the site falls within the definition of previously developed land. Notwithstanding the above, paragraph 17 should not be read in isolation.

21. I have had regard to the appellant's various references to the government's promotion of the re-use of previously developed land, including the recently published white paper. At the heart of the Framework is a presumption in favour of sustainable development. Whilst the reuse of previously developed land is encouraged, it still must be considered in the wider context of sustainable development.
22. The surrounding landscape comprises an expanse of open, verdant fields that creates a sense of openness to this typically rural setting. The lack of built form on the site and the unobtrusive stone wall allow continuous views across the landscape and makes a positive contribution to the overall openness of the area. I acknowledge that the proposal is in outline with all matters reserved. Nevertheless, the introduction of a dwelling and a detached garage on a site that is largely free of built form above ground level would significantly detract from the openness of the area. Furthermore, it would represent an encroachment into the open countryside that would erode its intrinsic character and appearance.
23. In addition, the site is an isolated location, some distance from the nearest settlement of Wem. The route to Wem is along a busy and fast unlit road which does not have grass verges. Therefore it is reasonable to conclude that the occupants would likely heavily rely on the use of a private car to access shops, services, facilities and employment.
24. I have had regards to the appellant's contention that the site is used as a 'tipping ground'. However, a dwelling on this site would have a substantially greater harmful effect on the landscape than the limited amount of waste stored on the site that I observed during my site visit.
25. Therefore, the harm it would have on the character and appearance of the area and the lack of access to sustainable modes of transport afford significant weight against the proposal. As such, it would fail to accord with Policies CS6 and CS17 of the CS, which seek to ensure that development is located in accessible locations, protects, conserves and enhances the natural, built and historic environment and contributes to local distinctiveness. In addition, it would fail to accord with Policy MD12 of the SAMDev, which seeks to protect landscape character.

Conclusion

26. Whilst the proposal would provide limited economic and social benefits, I do not consider that these would outweigh the harm it would have to the environment dimension of sustainable development. Furthermore, as I have found above, it would fail to accord with the Council's housing strategy. Accordingly, I do not find that it would represent sustainable development.

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

Alexander Walker

INSPECTOR

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Appeal Decisions

Site visit made on 28 February 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 31st March 2017

Appeal Ref: APP/L3245/W/16/3164599

Building A, Rose Cottage (or Rose Villa), Prees Green, Whitchurch, Shropshire SY13 2BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr Don Carissimo against the decision of Shropshire Council.
 - The application Ref 16/01540/PMBPA, dated 7 October 2015, was refused by notice dated 6 June 2016.
 - The development proposed is the change of use from agricultural to residential use.
-

Appeal B Ref: APP/L3245/W/16/3164628

Building B, Rose Cottage (or Rose Villa), Prees Green, Whitchurch, Shropshire SY13 2BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr Don Carissimo against the decision of Shropshire Council.
 - The application Ref 16/01541/PMBPA, dated 7 October 2015, was refused by notice dated 6 June 2016.
 - The development proposed is the change of use from agricultural to residential use.
-

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated. For conciseness, I have used the description of the proposals as set out in the Council's decision notices.
4. Schedule 2, Part 3, Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) sets out a number of limitations to the scope of permitted development rights, set out at subparagraphs a to m. If a development falls outside the scope of those limitations, it would not constitute permitted development and planning permission would be required. Where development falls within the scope of the limitations it is permitted subject to the requirement that the developer must

apply to the local planning authority for a determination as to whether prior approval will be required for a number of matters, as set out at paragraph Q.2.

5. In this instance the Council refused the applications on the basis that the proposals were not permitted development under Class Q.(b) and Q.1(i). In addition, the Council also refused the applications under paragraph W(3)(b) on the basis that insufficient information was submitted in respect of the extent of structural work required. Furthermore, the Council considered that the proposals fail to satisfy Q.2(1) (c), (d), (e) and (f).
6. The initial application submission did not include details regarding alterations to the roof. However, in an email to the Council, dated 12 May 2016, the appellant's agent, Mike Lapworth, confirmed that both roofs could be over clad with insulation. The applications were determined on this basis. Whilst the Council did not appear to address Q.1(g) in their consideration of the applications, as the decision maker I am required to consider whether the proposal would meet the terms of the Order and I see no reason why the terms of paragraph Q.1(g) should not apply to my decision. Consequently, in addition to the points raised by the Council, I have considered whether the proposal would fall within the scope of permitted development, taking account of the limitations of paragraph Q.1(g). Both parties have been given the opportunity to comment on this matter and I have taken account of their responses in my determination of the appeals. I note that the appellant's response suggests that the insulation could be provided internally on Building A and would be internal on Building B. However, such modifications to the proposals would be significant alterations to the schemes considered by the Council. Accordingly, I have determined the appeals on the basis that the insulation would over clad the existing roofs.

Main Issues

7. The main issue is whether or not the proposed developments would constitute permitted development in respect of Class Q(a) and Q(b) of the GPDO 2015, and, if it would, then whether or not it would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

Reasons

8. The proposed conversions would comprise a number of internal and external alterations to both of the buildings, including the replacement/installation of new windows and doors, the recladding of external walls and alterations to the roofs as I have referred to above. The appellant's evidence confirms that the existing structural framework of the buildings can accommodate the proposed works and there is no evidence before me to suggest otherwise.
9. Q.1(i) allows for, amongst other things, the installation or replacement of windows, doors, roofs, or exterior walls...to the extent reasonably necessary for the building to function as a dwellinghouse. The existing buildings comprise solid walls and roofs and are capable of conversion. Whilst the proposed works would be extensive, they would be reasonably necessary to enable the buildings to function as dwellinghouses. Although the works would involve the partial demolition of the buildings, particularly through the removal of existing wall cladding, the structural frame of the buildings would be retained and I do not consider that this would go beyond the scope of works permitted under Q.1(i), which allows for the replacement of exterior walls.

10. I have had regard to the Council's reference to a recent High Court judgement¹. In this instance, given the structural integrity of the existing buildings and that the proposed works, including partial demolition, would be reasonably necessary, I do not consider that it would amount to a rebuild in either case.
11. The Council raise particular concern that there are no details regarding new lintels above doors and windows, which could change the character of the buildings and potentially require the need to increase their size/height. However, I see no reason why new/replacement doors and windows could not be accommodated within the buildings without increasing the height of the buildings, as indicated by the appellant.
12. Notwithstanding the above, the aforementioned alterations to the roofs would likely raise the height of both buildings. Whilst it is not clear how thick the insulation would be, the photographs of a similar system being installed on a listed building in Bath suggests that it would add significant height to the existing roofs. Q.1(g) states that development is not permitted by Class Q if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. I note the appellant's argument that Q.1(i) allows for the installation/replacement of a roof. However, I do not agree that such works override the requirement of Q.1(g). It is reasonably feasible for the installation or replacement of a roof to match, or indeed reduce, the existing dimensions and therefore comply with both Q.1(g) and Q.1(i).
13. I have also had regard to the appellant's contention that Q.1(g) is intended to relate to floor space. However, if that was the case, then it would be worded as such rather than making reference to *external dimensions*. In this instance, as the roof heights would be increased due to the thickness of the insulation, it would inevitably extend the buildings beyond their existing dimensions and therefore fail to satisfy Q.1(g).
14. I note the appellant's reference to developments elsewhere whereby the proposed method of roof insulation was accepted. However, there is no evidence that these developments were permitted development, for which the prior approval procedure is considerably different to that of a planning application.
15. I find therefore that the proposals would not constitute permitted development in respect of Class Q of the Order. As a result, there is no need to consider whether or not the proposals would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

Conclusion

16. For the reasons given above I conclude that the proposals are not permitted development and the appeals should be dismissed.

Alexander Walker

INSPECTOR

¹ *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853

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