



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

Date: Monday, 14 August 2017

Committee: North Planning Committee

Date: Tuesday, 22 August 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

Roy Aldcroft
Clare Aspinall
Gerald Dakin
Pauline Dee
Rob Gittins
Roger Hughes
Vince Hunt (Vice Chairman)
Mark Jones
Paul Milner
Peggy Mullock
Paul Wynn (Chairman)

Substitute Members of the Committee

Nicholas Bardsley
Joyce Barrow
Karen Calder
Steve Davenport
Ann Hartley
Simon Jones
Matt Lee
David Minnery
John Price
Brian Williams

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 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 27th June 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 17th August.

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 Bradeley Farm, Crow Lane, Childs Ercall, TF9 2DB (17/01799/EIA) (Pages 5 - 32)

Erection of two additional poultry sheds and associated plant room (part retrospective)

6 Proposed Development Land On North Side Of Whittington Road, Gobowen, Shropshire (15/04473/REM) (Pages 33 - 44)

Approval of Reserved Matters (access, layout, appearance, scale and landscaping) pursuant to permission 13/02217/OUT for residential development; formation of open space; alterations to existing vehicular access

7 The Primitive Chapel, Pool Head, Wem, Shrewsbury, Shropshire (17/02628/FUL) (Pages 45 - 62)

Application under Section 73a of the Town and Country Planning Act 1990 for the installation of replacement windows

8 Appeals and Appeal Decisions (Pages 63 - 64)

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, 19th September 2017, in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

North Planning Committee

22nd August 2017

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 27 June 2017

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

2.00 - 2.26 pm

Responsible Officer: Emily Marshall

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

Present

Councillor Paul Wynn (Chairman)

Councillors Gerald Dakin, Pauline Dee, Rob Gittins, Roger Hughes, Vince Hunt (Vice Chairman), Mark Jones and Paul Milner

11 Apologies for Absence

Apologies for absence were received from Councillors Roy Aldcroft (substitute: Simon Jones), Clare Aspinall and Peggy Mullock (substitute: Steve Davenport).

12 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 18th May and 30th May 2017 be approved as a correct record and signed by the Chairman.

13 Public Question Time

There were no public questions, statements or petitions received.

14 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 Wynn declared a disclosable pecuniary interest in relation to planning application 17/01662/FUL, Hadley Farm, Wrexham Road, Whitchurch. Councillor Wynn stated that he would vacate the Chair and leave the room during consideration of the application. Councillor Hunt, as Vice-Chairman would preside for consideration of this application.

15 Land At Lostford Lane, Wollerton, Shropshire (16/05812/FUL)

The Principal Planning Officer introduced the application for the erection of a general purpose agricultural building. Members' attention was drawn to the information

contained within the schedule of additional letters and photographs of the inside of the existing agricultural building were shown.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Hunt, read out a statement on behalf of Councillor Karen Calder, local ward councillor, who was unable to attend the meeting. The following points were raised:

- The site had a very complicated history, which had been referred to in the Planning Officer's report;
- There seemed to be a discrepancy between the report and the supporting statement relating to the amount of land in the applicant's ownership;
- There remained uncertainty surrounding the presence of stock numbers stated; and
- The Committee were being asked to grant planning permission for a large building which was distant from the proposed business, based on insufficient information to take an informed view on its sustainability.

The agent was in attendance and at the Chairman's request clarified some of the points raised by the local member. 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 the conditions set out in Appendix 1 of the report.

16 Hadley Farm, Wrexham Road, Hadley, Whitchurch, SY13 3AB (17/01662/FUL)

(In accordance with his declaration made at Minute 14, Councillor Wynn left the room during consideration of this application. Councillor Hunt as Vice-Chairman, presided as Chairman for this item).

The Principal Planning Officer introduced the application for the siting of up to 8no camping pitches and up to 2no glamping pods, including change of use of land.

Having considered the submitted plans, members unanimously 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 of the report.

17 Plas Offa Cottage, Chapel Lane, Trefonen, SY10 9DX (17/01740/FUL)

The Chairman announced that planning application 17/01740/FUL had been withdrawn by the applicant.

18 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the northern area be noted.

19 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 July 2017, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date

North Planning Committee

22nd August 2017

Item

5

Public

Development Management Report

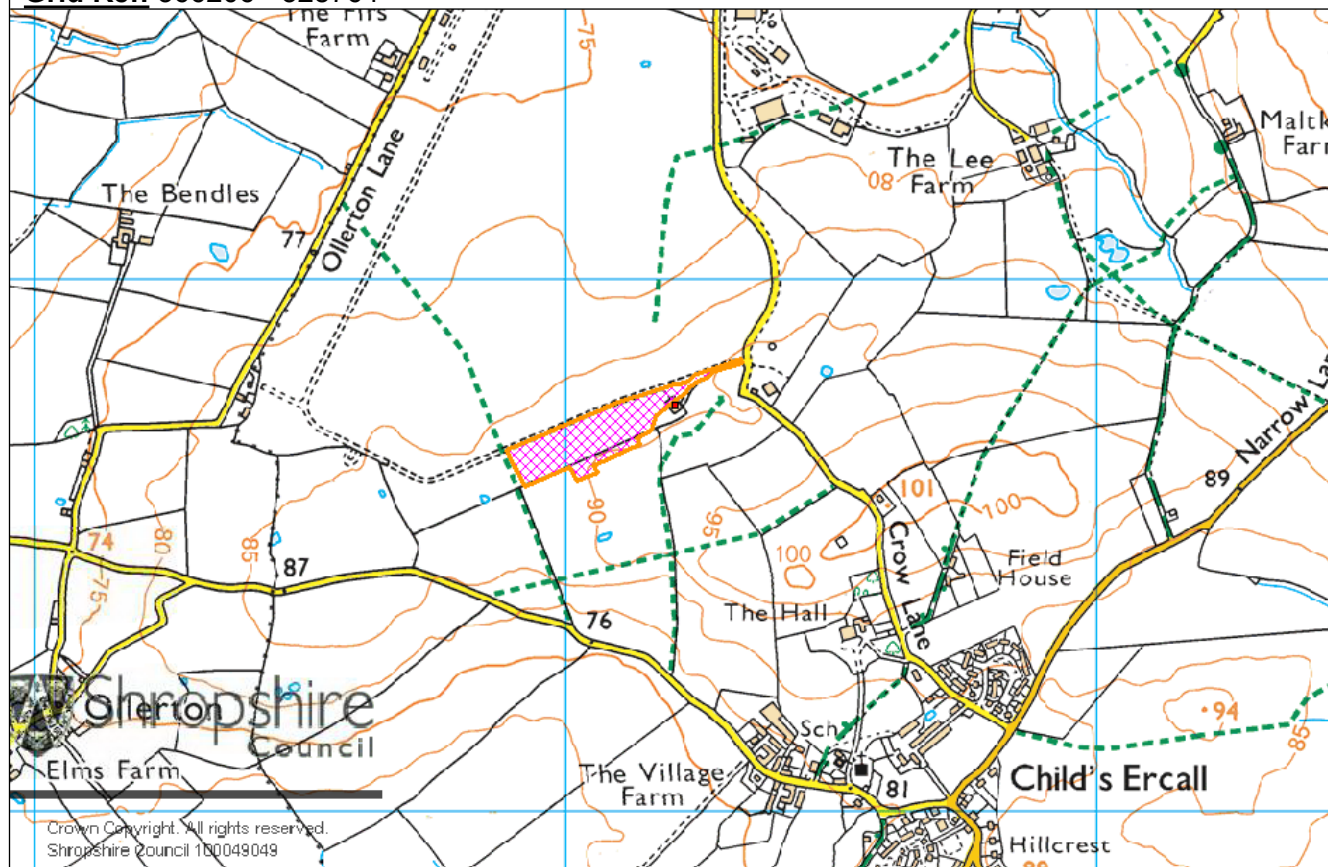
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 17/01799/EIA	Parish:	Childs Ercall
Proposal: Erection of two additional poultry sheds and associated plant room (part retrospective)		
Site Address: Bradeley Farm Crow Lane Childs Ercall TF9 2DB		
Applicant: Mr P Clifton		
Case Officer: Philip Mullineux		email: planningdmnw@shropshire.gov.uk

Grid Ref: 366206 - 325764



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REPORT

Recommendation: Delegated authority to the Head of Planning Services to grant planning permission for the proposed development subject to the conditions as set out in Appendix 1 and any modifications to these conditions considered necessary by the Head of Planning Services

1.0 THE PROPOSAL

- 1.1 The application proposes the erection of two additional poultry sheds and associated plant room (part retrospective) on land adjacent to an existing intensive poultry unit at Bradeley Farm, Crow Lane, Childs Ercall.
- 1.2 The application is accompanied by a set of proposed elevation and floor plans, site location plan, block plan, planning statement, environmental statement which includes reports on heritage impacts, visual assessment, noise assessment, ecological assessment, amenity risk assessment, drainage and flood risk assessment, ammonia report, odour report and a highways statement. During the application processing period further information was received on drainage, highways and ecological issues.
- 1.3 The application falls into the remit of the Town and Country Planning (Environmental Impact Assessment), (England and Wales) Regulations 2017, Schedule one development, and as such an Environmental Statement is mandatory to accompany any planning application for development on site. The threshold for schedule one development is 85,000 broiler birds, this application proposes housing for up to 170,000 birds on site. As such the application was advertised by the Council as development accompanied by an Environmental Statement.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site which covers an of approx. 0.80 hectares forms part of a small paddock located to the south-west of an existing intensive poultry unit within the control of the applicants , which consists of two broiler chicken units and associated infrastructure. The existing poultry unit is located to the south-west of the farm complex, which itself consists of several large farm buildings used for storage of farm machinery and fodder and cattle livestock housing. There is a purpose built, modern pig rearing and finishing building. The farm is set back off Crow Lane along a private access track.
- 2.2 The surrounding area is predominantly agricultural with the land used for both livestock and arable cropping.
- 2.3 The village of Childs Ercall is approximately 600 metres to the south-east of the site, and Ollerton approx. 950 metres to the south-west. The closest residential properties are around 480 metres to the west off Ollerton Lane, and The Hall on the edge of Childs Ercall which is approximately 650 metres to the south-east.
- 2.4 The farming business consists of mixed arable and livestock producing beef cattle and pigs. There is also an existing poultry unit consisting of 2 poultry buildings and associated infrastructure with a permit in place for 85,000 bird places.
- 2.5 It is proposed to erect a further 2 poultry buildings to the west of the existing units,

which will require a variation to the site permit issued and monitored by the Environment Agency, in order to increase the permitted bird numbers on site from 85,000 (82,000 on site), to 170,000 bird places and it is understood in accordance with detail forming part of the application that the permit application has been submitted to run concurrently with the planning application.

- 2.6 The poultry houses will each measure 100 metres long x 20 metres wide and will be 4.5 metres to the ridge, 3 feed bins and a water tank situated in between the two sheds. The two purpose designed broiler poultry buildings will be constructed to the same standard construction methods as the existing poultry buildings alongside the site - being portal framed construction with insulated box profile metal sheeting to the walls and box metal profile roof sheets. The buildings have been sited according to the ground levels.
- 2.7 Information submitted in support of the application indicates that the broilers will be brought onto site as day old chicks. The 40 day growth period will enable 7 crop cycles per annum with a 10 day turn around per crop, in order to clean out and prepare for the next crop of birds to be reared on site. Stocking on site will be in accordance with the welfare of broiler chickens as covered by the Welfare of Farmed Animals, (England) (Amendment) Regulations 2010. This sets limits on stocking densities to include a maximum of 38kg/square metre.
- 2.8 The birds will be grown for Moy Park (the business has an existing contract for current bird numbers), and at the end of the growing period they will be collected and transported to a processing plant. A 40 day growth cycle will result in the birds being around 2.2kg in weight by clear out. Thinning will take place once the birds have reached 1.8kg live weight.
- 2.9 The existing poultry units on site which house up to 82,000 broilers were approved subject to application reference 14/05776/FUL Erection of two poultry buildings – Approved 10th August 2015.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The proposal is for schedule one development in accordance with EIA Regulations and therefore Committee consideration is mandatory in accordance with the Council's scheme of delegation.

4.0 **Community Representations**

- 4.1 **Childs Ercall Parish Council** has responded to the application with no objections indicating:
I refer to the above application and would confirm that Childs Ercall Parish Council fully supports the application.

The Parish Council is of the opinion that the construction will fit with the existing buildings and the applicant has stated in the planning statement that access to the site will be using the most direct route from A41 to the west of the site as is the current situation for the existing poultry units thus avoiding the narrow Crow Lane access and the centre of Childs Ercall.

The Parish Council would request that its support is noted and taken into consideration when the application is determined.

Consultee Comments

4.2

The Environment Agency has responded with no objections indicating:

The proposed development will accommodate up to 85,000 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

Bradeley Farm is currently permitted for the rearing of 85,000 birds housed in two poultry sheds. The average cycle is 43 days and the site began operation in June of 2016. The reference of the permit is EPR/VP3530AE. No application has been submitted to vary the permit yet, in consideration of the further 85,000 birds that are subject of this planning application. However, the operator has been told that they do not need to undertake any additional ammonia modelling to vary the permit. There are no sensitive receptors within 400 metres and as such no Odour Modelling was undertaken at the permitting stage. However an Odour Management Plan was devised to set out what will be done to prevent odour problems at the site. Measures include keeping litter dry and sheeting loads during the clean out of the sheds at the end of each cycle. Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.

Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off

Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance.

Water Management: Clean Surface water can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters. Dirty Water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces. Any tanks proposed should comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present, may result in the build up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via:

<http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

Manure Management (storage/spreading): Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at:

<https://www.gov.uk/guidance/pollution-prevention-for-businesses>

- 4.3 **SC Planning Ecologist** has responded with no objections recommending conditions and informatives. Planning Officer to complete tests 1 and 2 on the European Protected Species 3 tests matrix and include the finished matrix in their site report.

The planning proposal is for the installation of a further 2 poultry buildings to the west of the existing units at Bradeley Farm. An increase to the Environment Agency Permit has been granted to allow 170,000 bird places.

Assessment on Designated Sites

SC Ecology welcomes the Environment Agency's Pre-application Report (dated March 2017) which has been submitted in support of this application.

Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can therefore use the EA modelling from the permit to complete the assessment of air pollution impacts but only if Shropshire Council has seen the detailed modelling outputs, understands them and agrees with them.

The Environment Agency Pre-application Report has been provided by Kevin Heede, and the detailed Ammonia Screening Tool assessment sheet containing the full modelling for all designated sites (European designated sites within 10km, SSSI

in 5km and local sites in 2km) has been provided by the EA.

Designated sites have screened out below the critical level threshold that has been agreed by Natural England and the Environment Agency, no further assessment is required. Please note a Habitat Regulations Assessment is not required to support this application as there are no European Protected Sites in 10km of the proposal.

Habitat Type	Habitat Name	PC as % of CLe Ammonia
SSSI	Hodnet Heath	4.3
LWS	Peplow Hall Heronry	10.4
LWS	Hungry Hatton	10.8

Screening criteria ☐ Associated distance

Critical Level (ug/m3)	Site	% of Cle threshold	Distance (m)
1	SAC SPA RAMSAR 4	3827	
1	SSSI 20	1381	
1	LWS, AW, LNR, NNR	100	499

Hodnet Heath Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection (17th May 2017).

Great Crested Newts

A pond is located within the plantation woodland, approximately 10 m west of the proposed site boundary (pond 1). The total area of the pond is approximately 300m² and it is fed by a field drain at its south-western extent. A medium breeding population of Great Crested Newts was confirmed in Pond 1 in 2014, with a peak of five female and nine males recorded (14 adults).

The spoil piles and hedgerows along the boundaries of the application field provide suitable opportunities for foraging and hibernating Great Crested Newt. There is also piles of rubble and building materials within the site which could provide shelter to Great Crested Newt.

The proposed development will mainly affect ecologically poor improved grassland, spoil heaps, rubble piles and bare earth habitat. It also has the potential to affect boundary hedgerows, trees and a ditch.

Turnstone Ecology have concluded that works on this site will require an EPS mitigation licence from Natural England. The site will be fenced using Temporary Amphibian Fencing, newts will be translocated, and optimal great crested newt habitat will be created, all in line with Natural England Guidelines.

The loss of newt habitat will be offset by the creation of a vegetated earth bund along the western end of the proposed development site (0.08 ha), which will provide optimal foraging and hibernation habitat within 50m of the pond. The bund will be created using excavated material and other available clean wood or rubble to essentially produce a linear hibernacula. It will be planted up with scrub tree species, such as Hawthorn and Blackthorn, seeded with a grassland seed mix and left unmanaged.

A rough grass buffer will also be created along the northern and southern edges of the site and the existing sparse and poorly connected hedgerows will be planted-up to create enhanced foraging and hibernation habitats (approximately 0.1 ha).

An updated proposed mitigation strategy has been submitted and now also shows a 10m scrub habitat creation along the south of the woodland edge and up to the edge of the field boundary (220m long) this will total 0.22 hectares of habitat creation (drawing number SA25893/05 dated Feb 2017).

Surface water will be controlled and there will be pollution control measures protecting the ditch and the pond.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Nesting Birds

A derelict building was identified within the plantation woodland to the south-west of the proposed site and this contained signs of occasional non-breeding use by Barn Owl with a mixture of aged pellets present within the building.

In order to enhance this site for barn owls the following condition should be on a planning decision notice;

Badgers

Although significant negative impacts on Badgers are not predicted it is recommended mitigation measures are put in place to ensure foraging Badgers do not become trapped within any excavation works associated with construction works. Excavations should either not be left uncovered overnight or ways of escape for Badgers provided.

Bats

The retained hedgerows and trees around the boundaries of the site will ensure suitable bat foraging and commuting habitat is maintained. Additional hedgerow and tree planting is recommended as part of the proposal and this would ultimately improve the area for foraging/commuting bats.

Long term bat roosting provision should be incorporated on/within the new buildings and should include a minimum of two bat boxes or bat tubes. Bat boxes and tubes provide integral roosting provision that is both discreet and secure, creating a self-contained unit that does not provide access into the wall cavity.

A lighting plan showing the location and specification for any proposed lights on the site will be produced. The lighting plan will reflect the Bat Conservation Trust Bats and Lighting in the UK guidance (2009) and will include directing lighting away from the retained and enhanced hedgerows and plantation woodland and the use of down lighting to ensure that suitable roosting features and foraging and commuting habitats remain unlit.

Landscaping

Habitat creation, enhancement and management is likely to have a positive impact on biodiversity. Please include the following conditions and informative on a planning decision notice

- 4.4 **SC Conservation Manager**, (Built Environment), raises no objections. The response states:

Background to recommendation: The application site relates to the relocated farm unit on the edge of the former World War II airfield land to the north west of Childs Ercall, and is for two further poultry sheds with associated tanks, feed bins and plant room.

Recommendation: Having viewed the relevant documentation in relation to the visual impact and the relevant heritage assets, it is considered that the information submitted satisfactorily demonstrates that the impact of the additional development on the surrounding heritage assets including the listed buildings is limited, ensuring their preservation in terms of setting and special interest in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as the relevant local and national policies.

- 4.5 **SC Archaeology Manager** raises no objections indicating:

It is considered that the Heritage Impact Assessment by Richard K Morris and Associates meets the requirements of Paragraph 128 of the NPPF and Policy MD13 of the Local Plan with regard to the archaeological interest of the proposed development. We confirm that we concur with its conclusion that the archaeological potential of the proposed development site is low, such that any impacts will be very limited. Given these findings, we advise that no further archaeological mitigation is required and have no other comments to make.

- 4.6 **Shropshire Fire and Rescue** has responded to the application indicating:

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

- 4.7 **SC Transportation** raises no objections. The response indicates:

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

The application proposes two poultry buildings in addition to those previously approved under planning permission 14/05776/FUL to provide for a maximum of 170,000 birds overall.

The application documents include both Planning and Highways Statements which set out the details of the development and the traffic expected to be generated by the additional poultry buildings. The traffic movements for the additional poultry units are set out within Table 2.5 of the Highways Statement but do not take into account any savings in vehicle movements which would naturally occur in respect of the servicing of the full site (i.e., the existing and proposed poultry units). There is no reason to question the vehicle movement figures provided in the table, however there appears to be a minor discrepancy between the “Poultry Collection” vehicle movements figure in the table and that in the “Peak Daily Event” summary, which is not considered to be significant.

The documents clearly identify a route for development related traffic to and from

the north via Ollerton Lane, Heathcote and the A41/A53 with traffic avoiding Childs Ercall village. The application also offers improvement to sections of this route in the form of road haunching at three identified locations. These improvements are offered in light of the provision of passing bays which are understood to be required in relation to developments at Ollerton Business Park which shares the access route. Whilst the principle of these improvements is acceptable, the length/extent of the works and precise location of each is considered to require a more detailed review under the Section 278 agreement technical audit process.

It is proposed to utilise the existing vehicular access to Crow Lane which provides acceptable visibility, however, it is considered that the access requires some improvement to cater for the traffic associated with the construction and operation of the additional poultry units. It is noted from both the Highways and Design & Access Statements submitted in respect of the previous two poultry units (14/05776/FUL) that the access was to be upgraded for a distance of 15 metres from the edge of the classified road to provide an improved carriageway width and junction radii.

4.8 **SC Land Drainage** has responded indicating the proposed surface water drainage is acceptable.

4.9 **Natural England** raises no objections. Their response indicates:

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 26 April 2017

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

A previous response indicated:

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Hodnet Heath Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

- 4.10 **SC Regulatory Services, (Public Protection)**, raises no objections. Having again reviewed the noise assessment it is noted that it states: On day 36 there will be typically a maximum of five HGV movements per hour between 00:00 and 07:00 hours. These noise events would only occur on a limited number of nights per year. This conflicts with previous comments made by regulatory services. For clarification last comments should have read limiting night time HGV movements to one two way movement in an hour between the times of 23:00 - 07:00 hours, e.g. the coming and going of an HGV to and from the site between 23:00 and 07:00 hours. I would recommend this aspect is conditioned. It is known that night time depopulation is not necessary given that other operators have stated that depopulation will occur during day time hours only.

In addition I note that Air Source Heat Pumps are proposed to heat the installation. These generate noise however considering the noise levels likely and the noise levels currently found in the assessment I do not consider this noise will cause a significant change to the predicted noise levels and I do not require any amendments to the noise assessment.

- 4.11 **SC Public Rights of Way** makes the following comments:
It appears that Public Footpath 5 runs through the area in question and I attach a plan of the area showing rights of way information onto which I have overlaid the current proposed block plan which shows that footpath.

As this footpath appears to be obstructed by the proposed development an application to legally divert the footpath under the provisions of the TCPA 1990 will be required (fees apply). It is requested that the developers contact the Mapping & Enforcement Team to discuss the matter further.

- 4.12 **Public Comments**
No comments have been received from members of the public at the time of writing this report.

5.0 **THE MAIN ISSUES**

- Environmental Impact Assessment
- Planning policy and principle of development
- Siting, scale and design of structures and visual landscape impact.
- Residential amenity and public protection.
- Ecological issues
- Drainage
- Public Highway access
- Historic environment considerations.

6.0 **OFFICER APPRAISAL**

6.1 **Environmental Impact Assessment**

- 6.1.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, (came into force on 16th May 2017 replacing the 2011 Regulations), specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. As such the current proposal is EIA development. The planning

application is accompanied by an Environmental Statement, as required by the 2017 Regulations.

- 6.1.2 The Environmental Statement in support of the application makes reference to a sequential site selection, (alternative locations), as set out in Section 3.1 of the Environmental Statement and Officers consider detail as set out on site selection is considered satisfactory with consideration to the farming business concerned and the location and impacts etc.

6.2 Planning policy and principle of development

- 6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 120).

- 6.2.2 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.

- 6.2.3 SAMDev Policy MD7b indicates planning applications for agricultural development will be permitted where it can be demonstrated that the development is of a size/scale and type which is consistent with its required agricultural purposes and the nature of the agricultural enterprise, well designed and located and, where possible, sited so that it is functionally and physically closely related to existing farm buildings, with no unacceptable impacts on environmental quality and existing residential amenity.

- 6.2.4 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support

the rural economy, and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of an extension to the poultry unit in this location as an extension of acceptable scale to the existing poultry enterprise can be supported. Policies recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.

6.3 Siting, scale and design of structures and visual landscape impact.

6.3.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. Policy MD12 of the SAMDev also puts emphasis on the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration. It is noted that the site is not located within an area designated for landscape value.

6.3.2 The application site is located alongside two existing intensive poultry sheds, also in the control of the applicants, producing broilers and therefore this application is to be considered as a proposal to extend the existing intensive poultry enterprise.

6.3.3 The surrounding landscape is characterised by fields with hedgerow boundaries and small copses of native woodland. Adjacent to the site are two existing intensive poultry units. A public footpath crosses the site and this will require a diversion, this is considered acceptable in principle and it is considered visual impact in relationship to this footpath in the context of the surrounding countryside character is acceptable. It is considered that the two further intensive poultry units and three feed silos as proposed will impact on the landscape visually and its character. Poultry sheds may have a significant impact on the surrounding landscape and it is considered that the impact can be mitigated with further landscaping. As such it is necessary to attach a condition to any approval notice issued, in order to ensure adequate landscaping is carried out in order to mitigate the development into the surrounding landscape to an acceptable manner.

6.3.4 The Environmental Statement in support of the application includes a chapter that refers to a Landscape and Visual Impact Assessment (LVIA). This concludes that the direct effects on landscape will be limited. The proposed development is on an agricultural site adjacent to existing buildings and no important landscape features or elements will be lost as a direct consequence of the development. The proposed development will be compatible with the surrounding agricultural land uses and comprehensive mitigation will be implemented. The landscape assessment concludes that the development will overall cause slight adverse significance effects on the landscape character of the area. The visual assessment has only identified limited views of the site from certain locations. The receptor groups most susceptible to adverse visual effects are associated with isolated dwellings and farmsteads locally and users of the close public rights of way to the north and west. The properties likely to experience the greatest level of adverse effect are at 3 and 4 Ollerton Lane, although due to the separation distance, and the existing farm buildings the significance of the visual impact is considered to be slight. Users of the rights of way will experience views from sections of the paths when

approaching from the north, but the overall significance on footpaths is considered to be slight. Mitigation will also help to lessen the visual impacts. The footpath that goes past the site is proposed for diversion into the wood which will be an improvement from going right past the buildings. There will be an overall slight adverse significance on the landscape and a limited number of adverse visual effects that are able to be mitigated through appropriate landscaping. Based on planning policy context, it is considered that the development complies with the relevant planning policies on landscape character and visual matters.

6.3.5 In conclusion, although the development would be visible to certain receptors within the 2km study area, the low level of the buildings, existing buildings, and the restricted/ partial views are such that the development would not dominate the overall scenery. In overall terms, despite a degree of potential impacts, Officers share the findings of the LVIA in that the location of the proposed poultry unit is not considered to be out of scale or keeping with the local setting, or the areas visual amenity and character.

6.3.6 It is also acknowledged that this application is for an extension to an existing poultry unit and as such with landscape mitigation in the form of native tree and hedge planting development on site, can be mitigated to an acceptable level, both visually and cumulatively with consideration to the existing on site. Existing screening on site is not considered adequate in relationship to the scale of the development on site in relationship to the overall character of the existing landscape, and as such this further strengthens the requirements for landscape mitigation. It is also acknowledged that detail in support of the application indicates the applicants' willingness for further landscape mitigation.

6.3.7 With consideration to the above-mentioned, and further landscape mitigation as discussed, on balance, the development is acceptable in relationship to siting, scale and landscape and visual impact, and as such in accordance with the overall aims and objectives of the NPPF, Policies CS5, CS6 and CS17 of the Shropshire Core Strategy and relevant policies of the SAMDev.

6.4 **Residential amenity and public protection**

6.4.1 The proposed development is located approx. some 470 metres from the nearest residential dwelling outside the control of the applicants. The National Planning Policy Framework in paragraph 122 states that 'local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

6.4.2 The applicants will need to obtain from the Environment Agency an Environmental Permit in order to operate from the site, this will control issues in relationship to residential amenity. The Environment Agency's response to the application raises no objections indicating that they have not received an environmental permit application from the applicants, (an email from the applicants agent confirms that an application for an Environmental permit to the Environment Agency has since been made). This will cover issues such as on site noise, emissions and waste and their management, the permit will also covers issues of concern in relationship to surrounding residential amenity. An odour management plan will also form part of

the Environmental Permit. The response also refers to planning advice as set out in the NPPF. Management operations are as outlined in the EA response as indicated in paragraph 4.1.3 of this report. The EA response indicates that they have provided the applicants with an initial ammonia screening assessment as part of a pre-permit application consultation and that their report concludes that, based on the information provided, the applicant would not need to submit detailed modelling on environmental issues with their EP application. It is noted Natural England raises no objections to the development.

- 6.4.3 Information submitted in support of the application, as part of the Planning Statement is considered acceptable in relationship to residential amenity as it is noted that none of the statutory consultees raise any objections on this matter.
- 6.4.4 It is also noted that SC Public Protection have responded to the application indicating that based on the information submitted in support of the application that there will be no significant adverse impact on the amenity of the area and that the permit issued and regulated by the Environment Agency will control these elements.
- 6.4.5 However the Environmental permit issued and monitored by the Environment Agency only covers on site activities and therefore feed deliveries to the site and manure movements off the farming unit concerned will not be covered by the permit, (other than on-site activities), and as such it is recommended that conditions are attached to any approval notice issued restricting times for feed deliveries and that any manure removed off site is done so in sealed and covered containers/trailers. Manure disposal on site will form part of the Environmental Permit regime and is a matter for the applicants to address as part of their environmental permit.
- 6.4.6 The previous application for the existing intensive poultry development alongside the application site raised concerns in relation to HGV movements. With consideration to the location and intensity of development and the existing farming enterprise and voluntary routing system as referred to by the applicants in connection to the development and with consideration to the response to the application from Shropshire Council's Highways Manager it is considered that transportation issues in relation to this proposal is acceptable with a condition attached to any approval notice issued in respect of feed deliveries to the site. It is recognised that feed deliveries outside normal working hours can potentially create noise and in particular in relation to the unloading of feed into the silos on site. It is recommended that a condition is attached to any approval notice issued restricting times for feed deliveries and this will also contribute towards protection of use of surrounding public highways during anti social hours.
- 6.4.7 The Council's Regulatory Services response also refers to restricting night time HGV movements to one two way movement in an hour between the times of 23:00 - 07:00 hours, e.g. the coming and going of an HGV to and from, the site between 23:00 and 07:00 hours. This recommendation is in consideration of bird depopulation on site and subsequent removal of the birds from site. Information submitted in support of the application indicates there will be 30 movements in relation to bird removal off site per crop and that this will be restricted to two per hour. The highway leading to the site and referred to by the Public Protection

Manager is not a private drive/right of way shared or lived alongside by occupants of dwellings outside the control of the applicants, where residents could and would expect in consideration of such a location, a reasonable degree of peace and quiet, but a public highway, and as such with consideration to the nature and scale of the proposal, impacts on amenity are considered acceptable in relation to the potential amount of night time movements as a result of this application.

- 6.4.8 Enforcement of any restrictions along a public highway as proposed by the Council's Regulatory Services would prove difficult to sustain in relation to bird depopulation, where as feed deliveries are more noisy in their on site activities and as such on this occasion should and can be restricted by imposition of condition to any approval notice issued, as this activity, it is considered if necessary can be monitored and enforced against it considered unreasonable, with an appropriately worded condition in place.
- 6.4.9 With consideration to the above-mentioned, and conditions attached to any approval notice issued restricting amount of birds retained on site, and restrictions in relation to bulk feed deliveries, on balance the proposal is considered acceptable in relationship to surrounding residential amenity issues subject to the applicants obtaining an environmental permit for the operations as proposed from the EA. As such the proposal on balance is considered to be in accordance with relevant policies of the Shropshire Core Strategy, the SAMDev and the National Planning Policy Framework on issues in relationship to residential amenity and public protection.
- 6.5 **Ecological issues.**
- 6.5.1 The application is accompanied by an ecological assessment The Council's Planning Ecologist initially raised concerns with regards to Great Crested Newts, requesting additional information relating to great crested newts, as it was established that a pond is located within a plantation woodland, approximately 10 metres west of the proposed site boundary (referred to as pond 1). The total area of the pond is approximately 300m² and it is fed by a field drain at its south-western extent. A medium breeding population of Great Crested Newts was confirmed in Pond 1 in 2014, with a peak of five female and nine males recorded (14 adults).
- 6.5.2 The spoil piles and hedgerows along the boundaries of the application field provide suitable opportunities for foraging and hibernating Great Crested Newt. There is also piles of rubble and building materials within the site which could provide shelter to Great Crested Newts.
- 6.5.3 In response to this concern, the applicants submitted further information in relation to great crested newts. They also concluded that works on this site will require an EPS mitigation licence from Natural England. The site will be fenced using Temporary Amphibian Fencing, newts will be translocated, and optimal great crested newt habitat will be created, all in line with Natural England Guidelines.
- 6.5.4 The loss of newt habitat will be offset by the creation of a vegetated earth bund along the western end of the proposed development site (0.08 ha), which will provide optimal foraging and hibernation habitat within 50 metres of the pond. The bund will be created using excavated material and other available clean wood or rubble to essentially produce a linear hibernacula. It will be planted up with scrub

tree species, such as hawthorn and blackthorn, seeded with a grassland seed mix and left unmanaged. Information in support of the application also indicates that a rough grass buffer will also be created along the northern and southern edges of the site and the existing sparse and poorly connected hedgerows will be planted-up to create enhanced foraging and hibernation habitats (approximately 0.1 ha), along with a 10 metre scrub habitat creation along the south of the woodland edge and up to the edge of the field boundary (220 metres long) this will total 0.22 hectares of habitat creation (drawing number SA25893/05 dated Feb 2017). Surface water will be controlled and there will be pollution control measures protecting the ditch and the pond.

6.5.5 A Habitat Regulations Assessment has been carried out and this is attached to the report as appendix 2 for reference purposes.

6.5.6 Natural England and SC Ecology now raise no objections and the latter recommend the attachment of conditions to any approval notice issued with regards to site clearance procedures, barn owl and bat enhancement measures, external lighting detail and landscaping and habitat enhancement. Also recommended are the attachment of informatives in order to remind the applicants/ developer with regards to issues of an ecological nature relevant to the site subject to the development.

6.5.7 On ecological issues the proposal is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Policy MD12 of the SAMDev and other relevant local plan policies as well as the National Planning Policy Framework and the Conservation of Habitats and Species Regulations (2010)

6.6 **Drainage**

6.6.1 Policy CS18 of the Shropshire Core Strategy seeks to reduce flood risk and avoid adverse impacts on water quality and quantity.

6.6.2 The Environment Agency whilst raising no objections to the proposed development acknowledges that the site is within flood zone one, (least risk). The response refers to the flood risk assessment submitted in support of the application (water resources report), and defers to the Council's Land Drainage Manager for further consideration on flood and drainage issues.

6.6.3 The Council's Land Drainage Manager has responded on receipt of further clarification on drainage issues raising no objections, indicating that surface water drainage proposals are acceptable.

6.6.4 On flooding and drainage issues the proposal is considered acceptable and in accordance with Policy CS18 of the Shropshire Core Strategy, the SAMDev and the NPPF.

6.7 **Public Highway access**

6.7.1 Information in support of the application indicates a route for development related traffic to and from the north via Ollerton Lane, Heathcote and the A41/A53 with traffic avoiding Childs Ercall village. The application also offers improvement to sections of this route in the form of road haunching (edge of carriageway

strengthening) at three identified locations. These improvements are offered in light of the provision of passing bays which are understood to be required in relation to developments at Ollerton Business Park which shares the access route. Whilst the Council's Highways Manager's response to the application indicates that the principle of these improvements is acceptable, the length/ extent of the works and precise location of each it is considered will require a more detailed review under the Section 278 agreement technical audit process. As such there are adequate controls in place to address this matter.

- 6.7.2 The applicants agent by means of an updated Highways Statement has also confirmed in relation to the description of the retrospective element of the planning application which refers to a "plant room" whilst the original Highways Statement makes reference to a "biomass building" and provides details of fuel (woodchip) deliveries the updated highways statement removes reference to the biomass boilers and therefore traffic movements associated with them.
- 6.7.3 As a result of the proposal there will clearly be a small increase in traffic. Based on the analysis provided in this assessment, there does not appear to be any significant transport related reasons to warrant refusal to the application, confirmation that HGV movements in relation to wood chip or/ raw timber material for processing in a on site wood chip processor greatly improves the proposal in relation to highway movements and residential amenity. It is noted that the Council's Highways Manager raises no objections to the proposed development subject to conditions attached to any approval notice issued with regards to no development taking place until the existing vehicular access has been widened to provide a carriageway width of 6 metres for a minimum distance of 15 metres from Crow Lane with 10.5 metre junction radii and highway improvement works being completed at the three locations indicated within Section 2.2.1 of the submitted Highways Statement in accordance with full road layout and construction details.
- 6.7.4 It is concluded that the vehicle movements generated by the development can be accommodated on the existing highway network and that there will be limited impact of no significance in relation to the existing public highways. As such the conclusions of the amended Highways Statement submitted in support of the application are shared by Officers who on balance consider the proposed development to be in accordance with Policies CS5 and CS6 of the Shropshire Core Strategy, the SAMDev and the NPPF in relationship to highway and transportation matters.
- 6.8 **Historic environment considerations.**
- 6.8.1 Shropshire Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation Area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 6.8.2 It is considered that information submitted in support of the application, in relationship to impacts on heritage assets, is acceptable, observations by the Case officer, which has included a visit to the site and surrounding area and a desk top exercise, and taking into consideration the existing development on site the development is considered acceptable with regard to the nearest historic receptors.
- 6.8.3 It is noted that the County Archaeology Manager raises no objections to the proposal, the response requiring no further information or mitigation.
- 6.8.4 With consideration to the above-mentioned in relationship to the historic environment, the proposed development is considered acceptable and in accordance with Core Strategy Policy CS17, SAMDev Policy MD12 and the NPPF in relationship to historic and archaeology matters of interest.

7.0 **CONCLUSION**

- 7.1 The proposal is for two intensive broiler units, three feed silo's and yard area and access improvements, as an extension to an existing broiler production unit adjacent to the site which will increase broiler production from 82,000 to 170,000 birds in four separate bird rearing units in total, as part of an appropriate farming venture for the existing family farming business.
- 7.2 It is acknowledged that the development as proposed is significant in scale and will have an impact on the landscape, however it is considered on balance with consideration to the location, size and scale and cumulative impacts, that this will not be of an adverse effect and with consideration to the economic benefits to the business concerned and production of local food with further landscape mitigation in the form of native plantings and consideration to the external colour of all the development on site to be acceptable in principle. Public highway access matters are considered acceptable, with consideration to the access route as indicated in information submitted in support of the application, as the site is ideally located in relationship to satisfactory and adequate access to the surrounding public highway network. Residential amenity and privacy issues in general on balance are considered acceptable.
- 7.3 The development raises no adverse concerns from any of the statutory consultees to the application, or from the local Parish Council, and members of the public. The applicants will need to obtain from the Environment Agency a variation to the existing environmental permit in order for the site to operate.
- 7.4 The findings and conclusions as indicated in the Environmental Statement submitted in support of the application are considered on balance acceptable.
- 7.5 As such the proposed development is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the SAMDev, the National Planning Policy Framework and other relevant planning guidance. The recommendation is therefore one of approval subject to conditions as attached to this report.
- 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

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS17 - Environmental Networks

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

National Planning Policy Framework

Relevant planning history:

09/03728/REM Details of the layout, scale, external appearance and landscaping for the erection of agricultural workers dwelling following the grant of outline planning permission numbered NS/08/00476/OUT. GRANT 5th February 2010

14/01372/SCR Screening Opinion Request made under The Town and Country Planning (Environmental Impact Assessment, England and Wales) Regulations 1999 for the erection of an agricultural building to be used for the rearing and fattening of 800 pigs EAN 2nd April 2014

14/01794/FUL Erection of livestock building following removal of existing GRANT 24th June 2014

14/02501/SCR Screening Opinion Request made under The Town and Country Planning (Environmental Impact Assessment, England and Wales) Regulations 1999 for the erection of two poultry units at Bradeley Farm for the proposed rearing of 80,000 broilers EAN 7th July 2014

17/01954/FUL Erection of agricultural building for fodder/straw storage GRANT 22nd June 2017

17/01956/FUL Erection of general purpose agricultural building GRANT 22nd June 2017

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 R. Macey
Local Member Cllr Rob Gittins
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

2. The development shall be carried out strictly in accordance with the approved plans, drawings and information submitted in support of the application unless otherwise indicated in conditions as attached to this approval notice

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until the existing vehicular access has been widened to provide a carriageway width of 6 metres for a minimum distance of 15 metres from Crow Lane with 10.5 metre junction radii. The full width of the improved access shall be constructed/surfaced in a bound material for a distance of 15 metres rear of the Highway carriageway edge.

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

4. Prior to either of the poultry buildings first being brought into use, Highway improvement works shall be completed at the three locations indicated within Section 2.2.1 of the submitted Highways Statement in accordance with full road layout and construction details, which shall first be submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of Highway safety.

5. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species

6. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

a) Description and evaluation of the features to be managed as identified in the Ecological Survey Report conducted by Turnstone Ecology (March 2017, Revision 00), and shown on drawing SA25893/05 Proposed Great Crested Newts mitigation foraging areas (Feb 2017);

- b) Ecological trends and constraints on site that may influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
 - h) Monitoring and remedial/contingencies measures triggered by monitoring;
 - i) The financial and legal means through which the plan will be implemented.
- The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

7. A minimum of 2 external bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited in accordance with the latest guidance (currently http://www.bats.org.uk/pages/bat_boxes.html) and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

8. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

9. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

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

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

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

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

10. A Barn Owl roosting/nesting box shall be provided for Barn Owls prior to first occupation of the buildings hereby permitted. The barn owl nest box shall be thereafter maintained for the life of the development.

Reason: To secure the long-term protection of Barn Owls

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

11. All manure removed off site will be done so in sealed and contained trailers.

Reason: In consideration of surrounding amenity.

12. No feedingstuffs will be delivered to the site outside the hours of 8am - 6pm Monday - Saturday or at any times during a bank holiday.

Reason: In the interests of surrounding residential amenity.

13. All building development on site, (including all the feed silo's and the feed operations room), are to be all externally in accordance with colour code BS12B29, (juniper green).

Reason: In consideration of the visual impact and to mitigate the development into the surrounding landscape.

14. (a) The number of birds kept at the intensive poultry complex as a whole (comprising the four poultry rearing buildings) within the poultry rearing buildings shall not exceed 170,000 birds at any time. (In accordance with detail as set out in the Planning Statement submitted in support of the application).

(b) Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to local planning authority on request.

Reason: To avoid adverse impacts due to over intensification of the development

EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

17/01799/EIA
 Bradeley Farm
 Crow Lane
 Childs Ercall
 TF9 2DB
 Erection of two additional poultry sheds and associated plant room (part retrospective)

Date of consideration of three tests:

20th July 2017

Consideration of three tests carried out by:

Nicola Stone
 Planning Ecologist
 Shropshire Council

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

Economic.

2 Is there ‘no satisfactory alternative’?

No, this site is sequentially the most appropriate in relation to the existing business.

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

I have read the above application and the supporting documents including the;

- Ecological Survey Report conducted by Turnstone Ecology (March 2017, Revision 00)
- SA25893/05 Proposed Great Crested Newts mitigation foraging areas (Feb 2017)

Great Crested Newts

A pond is located within the plantation woodland, approximately 10 m west of the proposed site boundary (pond 1). The total area of the pond is approximately 300m² and it is fed by a field drain at its south-western extent. A medium breeding population of Great Crested Newts was confirmed in Pond 1 in 2014, with a peak of five female and nine males recorded (14 adults).

The spoil piles and hedgerows along the boundaries of the application field provide suitable

opportunities for foraging and hibernating Great Crested Newt. There is also piles of rubble and building materials within the site which could provide shelter to Great Crested Newt.

The proposed development will mainly affect ecologically poor improved grassland, spoil heaps, rubble piles and bare earth habitat. It also has the potential to affect boundary hedgerows, trees and a ditch.

Turnstone Ecology have concluded that works on this site will require an EPS mitigation licence from Natural England. The site will be fenced using Temporary Amphibian Fencing, newts will be translocated, and optimal great crested newt habitat will be created, all in line with Natural England Guidelines.

The loss of newt habitat will be offset by the creation of a vegetated earth bund along the western end of the proposed development site (0.08 ha), which will provide optimal foraging and hibernation habitat within 50m of the pond. The bund will be created using excavated material and other available clean wood or rubble to essentially produce a linear hibernacula. It will be planted up with scrub tree species, such as Hawthorn and Blackthorn, seeded with a grassland seed mix and left unmanaged.

A rough grass buffer will also be created along the northern and southern edges of the site and the existing sparse and poorly connected hedgerows will be planted-up to create enhanced foraging and hibernation habitats (approximately 0.1 ha).

An updated proposed mitigation strategy has been submitted and now also shows a 10m scrub habitat creation along the south of the woodland edge and up to the edge of the field boundary (220m long) this will total 0.22 hectares of habitat creation (drawing number SA25893/05 dated Feb 2017).

Surface water will be controlled and there will be pollution control measures protecting the ditch and the pond.

The proposed development will not be detrimental to the maintenance of the population of great crested newts recorded at a favourable conservation status within their natural range provided that the following conditions detailed in the response from Nicola Stone to Philip Mullineux dated 20th July 2017 are on the decision notice and are appropriately enforced:

1. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species

2. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed as identified in the Ecological Survey Report conducted by Turnstone Ecology (March 2017, Revision 00), and shown on drawing SA25893/05 Proposed Great Crested Newts mitigation foraging areas (Feb 2017);
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which

the plan will be rolled forward annually);

g) Personnel responsible for implementation of the plan;

h) Monitoring and remedial/contingencies measures triggered by monitoring;

i) The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

Guidance for filling in the EPS form

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

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

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

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

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

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

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

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

2. Is there no satisfactory alternative?

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

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

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

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

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

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

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

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

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

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Committee and Date

North Planning Committee

22nd August 2017

Item

6

Public

Development Management Report

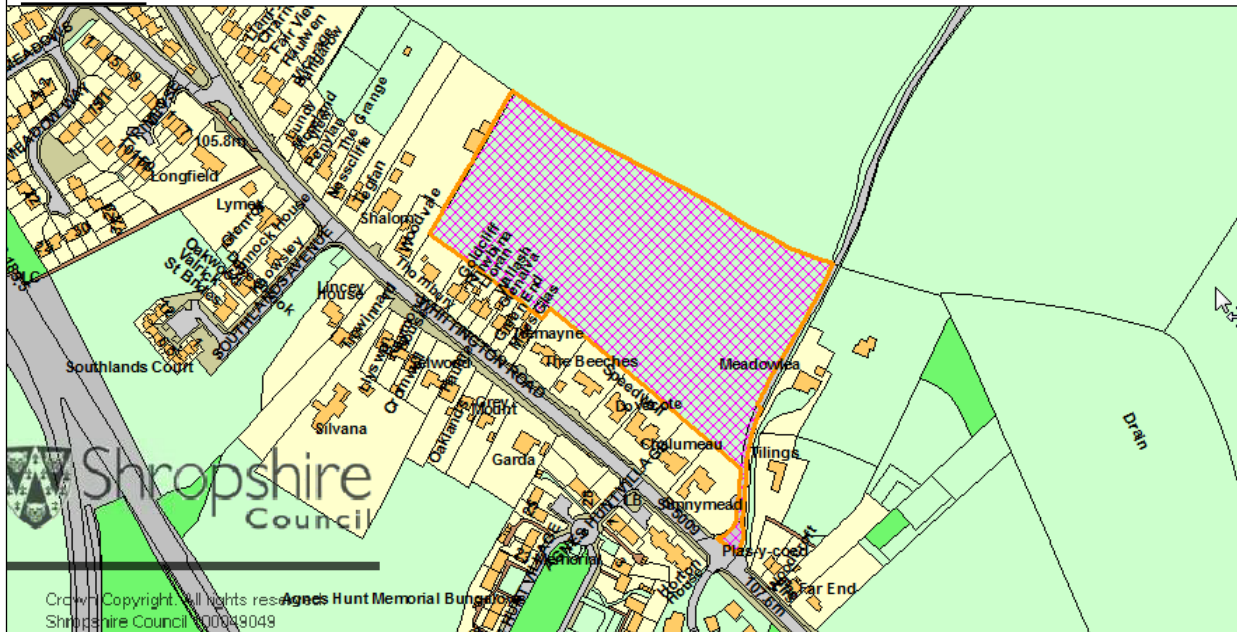
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04473/REM	Parish:	Selattyn And Gobowen
Proposal: Approval of Reserved Matters (access, layout, appearance, scale and landscaping) pursuant to permission 13/02217/OUT for residential development; formation of open space; alterations to existing vehicular access		
Site Address: Proposed Development Land On North Side Of Whittington Road Gobowen Shropshire		
Applicant: Mr M Evans		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 330913 - 333159



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

REPORT

1.0 THE PROPOSAL

- 1.1 This proposal involves the construction of 41 two storey dwellings on a site on the outskirts of Gobowen. Outline planning permission was granted by the planning committee in October 2014 (13/02217/OUT) where appearance, landscaping, layout, scale and access were all reserved for later approval. The outline planning consent therefore only established the principle of a residential development on the site. This application is therefore to consider the outstanding reserved matters. The outline planning permission was granted at a time when the Council did not have a demonstrable 5 years supply of housing land.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is 2.96 hectares in size and is an area of agricultural land that sits behind the linear pattern of development along Whittington Road. The site is accessed by an existing private driveway which provides access to Little Fernhill, this is a former farm which has an established business use for the manufacturing of timber products. To the east of this driveway there is another private driveway providing access to two existing dwellings and an area of paddock land. This site has recently obtained planning permission for the erection of 15 dwellings (16/05552/REM).
- 2.2 The site is located in an area of countryside with the development boundary for Gobowen running along the southern edge of the site. The land gently slopes downwards in a north easterly direction with just under half of the site falling within flood zone 2 and has an annual probability of flooding of 0.1% or greater from rivers but with an annual probability of flooding of less than 1%.
- 2.3 The application site is currently an area of agricultural land which has been used for growing crops previously. The site contains a single mature tree near its centre. Beyond the northern boundary is further agricultural land.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The minutes of the committee meeting in August 2014, when the outline planning application was considered, it states in the resolution that, "All Matters reserved for later approval be determined by this Committee".

4.0 Community Representations

4.1 - Consultee Comments

Parish Council (16/9/16)- Neither objecting to or supporting the Planning Application. Still no bungalow provision.

Parish Council (19/11/15)- made comments neither objecting to or supporting the Planning Application. Councillors expressed concerns regarding the safety of the

students at the Derwen College in relation to the proposed exit onto the main Whittington Road. Immediately adjacent to the entrance to the site is a bus stop that is used daily by Derwen students as part of their life skills education. Propose that altering the speed limit from 40mph to 30mph would be appropriate.

- The council expressed their disappointment that the provision for solar panels has not been incorporated into the designs, as the site is well positioned to capture sunlight.

- The housing mix does not accurately reflect the needs of the demographics of the community.

- Planting - more variety of shrubs and tree species needed.

- Land been farmed intensively so there is little goodness in the soil this could result in rainwater not being retained and carrying soil with it into the river Perry.

Concerns about the intenuation measures not in place

- Councillors noted that developments smaller than this are served by roundabouts.

- At present the junction to the site is used by articulated vehicles visiting an existing business.

The junction will serve this application and another development site immediately adjacent which will require access at the same point.

- The Council raised concerns about Gobowen being referred to in the application as low end.

4.2 Highways- No objection following the submission of amended plans. Officer comments on some aspects of the scheme but these concern details regarding the formal adoption of the road; this would be covered in a section 38 agreement.

4.3 Environment Agency- no objection subject to conditions.

4.4 Seven Trent Water- No objections to the proposals subject to the inclusion of the following condition:

4.5 Affordable Housing- The attached proforma shows the correct level of affordable housing provision on site.

4.6 Drainage- The surface water proposals are acceptable.

4.7 Ecology- No objection as the existing field tree is shown as being retained.

4.8 - Public Comments

Objections received from 17 individual addresses commenting on the following issues:

Increased traffic

Highway safety

Conflict with Derwen College entrance

Conflict with adjacent to site.

Increased pressure of services and facilities

Impact on ecology

Loss of countryside

Maintenance of green space.

No dwellings have solar panels.

Density of development not in-keeping

Impact on sewage system

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Highway Safety
Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Outline planning permission was originally granted in October 2014 which established the principle of a residential development on the site. Whilst outline planning permission was granted on the whole site, condition 8 of the outline consent requires that no development, including the gardens of the dwellings, shall be located within the area defined as being flood zones 2 and 3. The scheme has been designed on this basis with only the open space falling within flood zones 2 and 3.

6.1.2 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity and ensure sustainable design and construction principles are incorporated within the new development.

6.1.3 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2 Siting, Sale and Design

6.2.1 The original outline application provided an indicative layout. The layout has been amended significantly since this original scheme although the point of access with the adopted highway remains approximately the same.

6.2.2 The scheme includes a mix of 4x 2-bed terraced dwellings, 6 x 3-bed semi-detached, 5x 3-bed detached and 6x 4-bed detached dwellings. Their sizes range from 60 sqm to 186 sqm.

6.2.3 The scheme proposes a single estate road leading from the point of access with Whittington Road which then leads to a number of small cul-de-sacs. The scheme also includes a small area of public open space around the existing mature tree plus a large area of public open space on the eastern side of the site. This larger area is the part of the site that falls within flood zones 2 and 3, this area will also include the provision of the necessary pumping station, this will have its own access track

leading to it for maintenance.

- 6.2.4 The application site is positioned behind the dwellings fronting onto Whittington Road. The proposed dwellings on the southern side of the site would have their boundaries backing onto the rear gardens of the neighbours to the south.
- 6.2.5 The scheme does propose a varied mix of dwelling types, sizes and these are spread out across the site; all are two storey. The scheme includes a mix of materials such as facing brick, render and some dwelling have areas of timber cladding. It is considered that there is sufficient mix throughout the development to provide visual interest to the development. There is no clearly defining character that the proposed development needs to integrate with given the style of the two existing dwellings and the varied mix of dwellings along Whittington Road.
- 6.2.6 Views of the proposed development are limited with views from Whittington Road predominantly obstructed by the existing dwellings, although there will be glimpses of the dwellings through the small gaps in the existing street scene. Views of the proposed development will be visible from the agricultural land to the north and from the public footpath which crossed the fields to the north west. Although any views would be at a distance with the nearest part of the footpath being 112m from the corner of the application site. The footpath then heads off in a north easterly direction away from the application site.
- 6.1.7 It is considered that the proposed development is of an appropriate design and scale and would preserve the appearance of the site and its immediate surroundings.

6.2 Impact on Neighbours

- 6.2.1 The nearest neighbours are those to the south that have their rear boundaries backing onto the application site. These dwellings currently have their rear elevations and gardens looking out onto agricultural land. The smallest garden depth for the proposed dwellings would be 7.6 metres but because the neighbour's have long rear gardens there would be around 24 metres between facing windows. It is considered that the amount of separation is acceptable to preserve residential amenities.
- 6.2.2 The estate road traffic speeds would be low and whilst there would be some noise from the slamming of car doors and general activity this is not considered to be significant. Any noise created needs to be balanced against the noise that is already generated by the vehicles using Whittington Road which has a 40 mph speed limit. It is considered that the new estate road, the dwellings and the activity it would generate would not be likely to cause disturbance to such an extent where it detrimentally impacts upon the amenities of neighbouring occupiers.

6.3 Public Open Space

- 6.3.1 Policy MD2 of SAMDev requires landscaping and open space to be provided holistically as part of the whole development. The policy states that only developments of more than 20 dwellings does open space need to be provided as a formal play/ recreational space. The application site utilises the part of the site identified as being within flood zones 2 and 3 for this purpose. Whilst this open area may on rare occasions be flooded by shallow, slow water flowing down the hill it is

considered that this would be infrequent and would not, for the vast majority of the time, compromise the enjoyment and use of the open area.

- 6.3.2 Condition 6 of the outline planning permission requires details of the future maintenance and management of the open space to be approved prior to the occupation of any dwellings. This will ensure that the open space remains suitable for use by the residents and the wider community.
- 6.3.3 All of the dwellings do have large gardens and the provision of open space is further enhanced by the large open area. The open space is unlikely to be of benefit to anyone else other than those living on the estate given the site's location on the periphery of the village.

6.4 Highway Safety

- 6.4.1 The proposed means of access to the site was not approved as part of the outline planning consent as it was left as one of the reserved matters. However there is only one realistic point of access to the site and this is the one shown on the submitted plans. Just 9 months before outline planning permission was granted for the development, the adjacent site (The Tilings, 13/01005/OUT) also received outline permission for a residential development, this did include approval of the access. The Tilings site has recently obtained reserved matters approval for 15 dwellings. The access for the Tilings development, two existing dwellings adjacent to the Tilings site, the existing commercial use at Little Fernhill all emerge onto the same section of highway. As such the existing uses and the extant permissions are all material planning issues in terms of the traffic movements that they would collectively generate. Ideally there would be a single shared access serving all the existing and proposed developments rather than the two accesses running parallel to one another. There have been discussions between the interested parties but there has been no agreement between them to create a shared access arrangement. It is therefore necessary to consider the proposed access which solely serves 41 dwellings on its individual merits and whether it can safely sit alongside the other accesses.
- 6.4.2 The application has been considered by the Council's Highways officer who raises no objection to the scheme having considered the proposed development in connection with the vehicle movements that would be associated with the neighbouring developments. It is considered that for planning purposes the applicant has demonstrated that a satisfactory level of visibility is available given the speed of the traffic that would be turning into the site from Whittington Road. It is considered by the Highways Officer that the works necessary to form the junction can be determined under an appropriate Highway agreement or licence prior to implementation in conjunction with both development accesses.
- 6.4.3 Neighbours have commented on pedestrian and vehicle movements from the Derwen College. It is considered that the additional vehicle movements generated by the proposed development does not compromise the safety of those accessing and leaving the college either on foot or by vehicle.

6.5 Affordable Housing

- 6.5.1 The S106 attached to the outline planning permission requires affordable housing to be provided at a rate that is in accordance with the prevailing target rate at the

time of submission of the last reserved matters application. In accordance with the S106 the applicant will need to provide a scheme for the affordable dwellings detailing location, tenures etc prior to the commencement of development.

6.6 Ecological Impact

- 6.6.1 The application site has little in the way of distinctive ecological features, at the time of the outline application the Council's Ecologist considered that it was not necessary for an ecological assessment to be submitted. The only feature of the site is a lone mature tree located centrally within the field. The proposed layout for the development shows that this tree will be retained as part of the development and will be one feature of the smaller areas of public open space. It is considered that the proposed development would not detrimentally impact upon the limited ecological value of the site.

6.7 Drainage

- 6.7.1 Condition 5 of the outline planning consent required full drainage details to be submitted to the Council prior to the commencement of development. This will be done via a discharge of condition application at a later date. A number of residents have made reference to the drainage of the site and how this may impact upon the existing sewage system.
- 6.7.2 As part of this reserved matters submission the applicant has provided details showing that surface water will be discharge to soakaways and that foul water will discharge to an on-site pumping station where it will be pumped up to the existing foul water system located in Whittington Road.
- 6.7.3 The drainage details submitted with the application have been considered by the Council's Drainage officer and Severn Trent Water and neither raise any objection to the scheme proposed. This is subject to providing a detailed drainage scheme as part of a later discharge of condition application.

7.0 CONCLUSION

- 7.1 The principle for residential development on this site has already been agreed as part of the outline planning consent, the proposed design and layout will respect the rural character of the area and not detrimentally impact upon the amenities of any neighbours. The proposed access will provide adequate visibility in both directions for emerging vehicles and will not result in highway conditions detrimental to motorists or pedestrians. It is also considered that the access can function satisfactorily in conjunction with other existing and proposed accesses. Flooding and drainage matters are also considered to be addressed satisfactorily. It is therefore considered that the proposed development complies with policies CS6 and CS17 of the adopted Core Strategy.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree

with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

13/02217/OUT Outline application for mixed residential development; formation of open space; alterations to existing vehicular access GRANT 20th October 2014

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Robert Macey Cllr Mark Thomas Jones
Appendices APPENDIX 1 - Conditions

APPENDIX 1**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.

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

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

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

3. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

4. Prior to first occupation details of all boundary treatments shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

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

5. Prior to the occupation of no more than 50% of the dwellings hereby approved the footpath link to Fernhill Lane, as shown on the approved plan (dwg no. 03 Rev D) passing between plots 33 and 34 shall be made available and clearly defined. The route shall thereafter remain unobstructed, maintained and available for the lifetime of the development.

Reason: To reduce the reliance on the use of the car.

6. No ground clearance, or construction work shall commence until the tree protection measures set out in the submitted Arboricultural report shall be fully implemented and retained in place for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area.

7. The surface water drainage for the site shall be carried out in accordance with drawing no. WR-GA-100 Rev D.

Reason: To ensure the satisfactory surface water drainage of the site.

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Committee and Date
North Planning Committee
22nd August 2017

Item
7
Public

Development Management Report

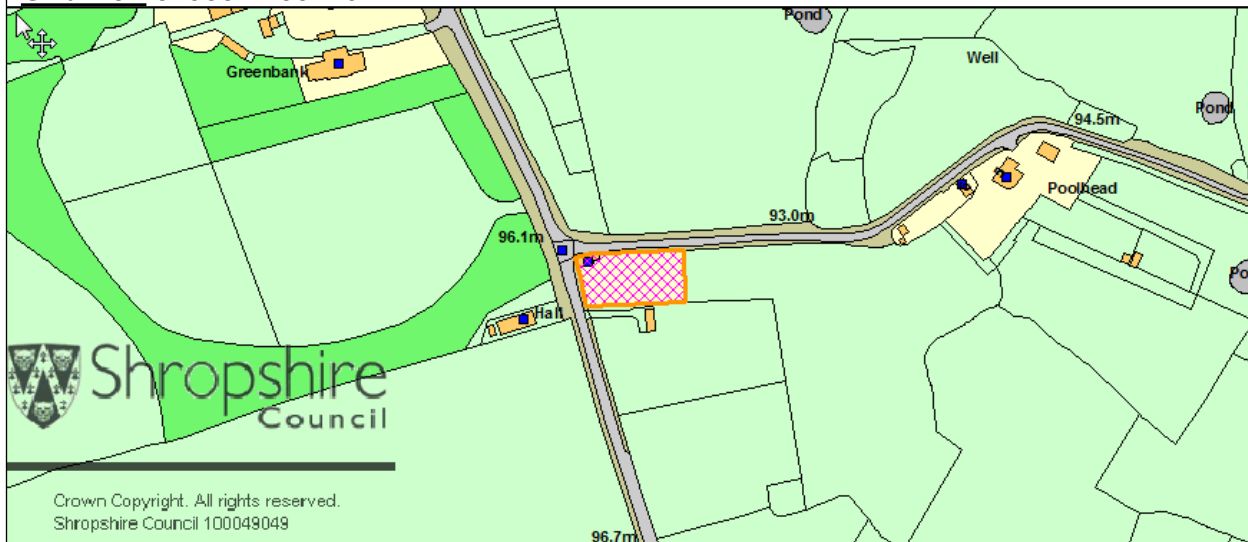
Responsible Officer: Tim Rogers

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

Summary of Application

<u>Application Number:</u> 17/02628/FUL	<u>Parish:</u> Wem Rural
<u>Proposal:</u> Application under Section 73a of the Town and Country Planning Act 1990 for the installation of replacement windows	
<u>Site Address:</u> The Primitive Chapel Pool Head Wem Shrewsbury Shropshire	
<u>Applicant:</u> Mr D Hughes	
<u>Case Officer:</u> Jane Preece	<u>email:</u> planningdmne@shropshire.gov.uk

Grid Ref: 349581 - 332401



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Recommendation:- That planning permission be refused for the following reason:

It is considered that the replacement of the existing windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and further that the replacement windows that have been installed are incongruous windows of inappropriate design, proportions and materials. The Local Planning Authority considers this has served to significantly detract from the character of the building, harming its significance and diminishing its' value as a local heritage asset. The application is unsupported by a Heritage Assessment to demonstrate or provide justification otherwise. On balance, therefore, the application is considered contrary to adopted planning policies CS5, CS6 and CS17 of the Shropshire Core Strategy; MD2, MD7(a) and MD13 of Shropshire SAMDev Plan and the Supplementary Planning Document on the Type and Affordability of Housing, together with the national guidance set out in section 12 and paragraph 135 of the NPPF.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission in retrospect under Section 73a of the Town and Country Planning Act 1990 for the installation of four replacement, windows within a former Primitive Methodist Chapel building.
- 1.2 The replacement windows have been fitted within the existing arched apertures; two within the front (south facing) elevation and two within the rear (northern roadside) elevation. The replacement windows are of double glazed UPVC and are of a light oak finish. They have replaced the original windows, which were of metal frames and white painted.
- 1.3 The Chapel was converted to residential use by virtue of planning permission reference N/03/406/WR/809, granted 18th December 2003.
- 1.4 Condition 3 of planning permission N/03/406/WR/809 required the development to be carried out in accordance with the approved plans and specifications. The approved plans specifically showed and specified the retention, repair and re-glazing of the existing metal window frames.
- 1.5 Condition 14 of planning permission N/03/406/WR/809 reads as follows:

'To preserve and enhance the historic character of the building and in the interests of visual amenity, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 or as may be re-enacted or amended, no enlargements, improvement or other alteration to the dwelling as normally permitted under Schedule 2, Part I, Classes A, B, C, D or H shall take place without the grant of an additional planning permission by the Local Planning Authority.'
- 1.6 The replacement windows have been installed without the grant of planning permission and therefore are in breach of condition 14 quoted above. Hence the

current application.

- 1.7 In support of the application the applicant has submitted photographs of the replacement windows and a covering letter. The letter explains that having only moved into the property in March this year, they proceeded to change the windows because the existing were '*decayed and unsecure*' and '*inadequate*' in terms of '*sound proofing and heat retaining qualities.*' They decided on what they considered a '*sympathetic design to compliment the building*', in an oak finish and of upvc; having looked at the locality and decided many '*other properties in the location*' had '*upvc windows*'. They were unaware that consent was required to install the replacement windows, until a neighbour questioned if they had to apply for permission to change them. Having consequently contacted Development Management for advice, they are now looking to resolve the situation with the current application.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies within the parish of Wem Rural and occupies a countryside location for planning policy purposes.
- 2.2 The property has no immediate neighbours and in this regard is relatively isolated from other built development. The former chapel building sits at a roadside junction, being immediately bounded by the local highway to the north and west. As such the chapel building occupies a visually prominent location adjacent to the passing rural roads.
- 2.3 The Primitive Methodist Chapel was built in 1864. It is of solid brick construction under a slate roof. The original windows were of metal frame, with small panes, and white painted. The planning consent permitted in 2003 allowed for the conversion of this small former and single chapel to a 2 bed dwelling (involving the installation of a new suspended timber floor and staircase). As referred to in paragraphs 1.4 and 1.5 above under the conditions attached to the planning permission the existing windows were to be retained, repaired and re-glazed.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The officer recommendation of refusal is contrary to the views of the Parish Council, who support the application (no reasons for support have been given by the Parish Council). The views of the Local Members have therefore been sought. Councillor Mellings has consequently requested that the application be considered by the Planning Committee for the following reasons:
- 3.2 '*I would argue that the replacement windows do not cause significant harm or loss to the building as a former chapel. The building is located in a relatively isolated location and the distinctive shape, character and nature of the building is unchanged by the new windows. They are of a sympathetic design and whilst upvc – do not look out of place within the building. In fact to a degree they compliment it in a way the old windows did not. This has been reflected in the positive comments that have been expressed by local people both in response to the application to direct to the applicant, The building is not therefore compromised nor diminished and retains its original shape so it is clear it is a*

former chapel. Neither is the building listed nor within a conservation area so has no harmful impact on the surrounding area.

Para 4.8 of CS6 refers to sustainable design reflecting peoples changing needs over time and requires consideration of different needs. The new windows certainly provide better sound and heating insulation compared to the old windows again without compromising the appearance of the building as a former chapel.

Para 135 of the NPPF requires a balanced judgement relating to its significance and scale of harm / loss. Therefore, given its location, scale and the local support, I would suggest that the changes are entirely consistent with the policies within the Core Strategy – especially CS6 and the appropriate parts of the NPPF. On this basis, it would be appropriate for Committee to consider and determine the issue.'

- 3.3 The matter has consequently been referred to the Chair/Vice Chair of the North Planning Committee in consultation with Principal Officers. It has been agreed that the application should be presented to the Committee for consideration as the case raises significant issues in relation to the buildings' character and the building is a non-designated heritage asset.

4.0 **Community Representations**

4.1 **Consultee Comments**

- 4.1.1 **SC Conservation** – The replacement of windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and replacement with incongruous windows of inappropriate design, proportions and materials. This has served to significantly detract from the character of the building, equating to less than substantial harm to its significance as a heritage asset.

The application is therefore considered contrary to policies CS5, CS6 and CS17 of the SC Core Strategy, and MD7(a) and MD13 of SC SAMDev. In addition, as the application affects a non-designated heritage asset, para 135 of the NPPF is relevant in this instance. This required a balanced judgement to be made taking into account the significance of the non-designated heritage asset and the scale of harm/loss. Given that the works undertaken have resulted in the loss of principal architectural features, it is considered that the scale of loss is high, and therefore this should be given substantial weight in any decision.

4.2 **Public Comments**

- 4.2.1 **Wem Rural Parish Council** - At the meeting of Wem Rural Parish Council held on 4 July 2017 it was resolved to support the application.
- 4.2.2 **Public representations** - Three representations of support has been received:

- The new windows look wonderful/enhance the appearance of the

property/are a great improvement and have been very thoughtfully done.– well befitting of an old property and much better than previous ones.

- The property is not listed.
- The old windows were cheap & nasty when the chapel was built/ugly & totally inappropriate, actually damaging the property because they caused damp.
- The colour & style of the windows have been sensitively chosen to blend in and harmonise with the property.
- The new windows are thermally efficient & should substantially improve the energy rating of the property.
- To remove the windows is a waste of materials & would represent a needless increase in carbon footprint.

NB: The comments of consultees and contributors are available to read in full via public access on the Council's website.

5.0 THE MAIN ISSUES

- Background
- Policy and principle of development
- Detail, design and impact on non-designated heritage asset
- Other material considerations

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 The application seeks retrospective consent for the replacement of 4 windows to the north and south elevations of the Primitive Chapel, Pool Head.
- 6.1.2 The building is a former Primitive Methodist Chapel of 1864, which is now in use as a single residential dwelling, consent having been granted for change of use in 2003 and permitted development rights for alterations having been removed by planning condition.
- 6.1.3 Constructed in brick under a natural slate roof, the overall form, layout and design of the chapel is typical of many rural vernacular non-conformist places of worship, constructed during the 'golden age' of Chapel building during the mid C19, as a result of the increase in non-conformist worship, particularly in rural and industrialised areas. The simple and understated classical design and architectural detailing of the building is typical of chapel buildings of the period. Due to its architectural, historic and communal significance, and its contribution to the distinctive rural character of the area, the building is considered a non-designated heritage asset, as defined within annex 2 of the NPPF.
- ### 6.2 Policy and principle of development
- 6.2.1 The proposal falls to be considered against the following adopted local planning policies: Shropshire Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), Site Allocations and Management of Development (SAMDev) Plan

policies MD2 (Sustainable Design), MD7(a) (Managing Housing Development in the Countryside), MD13 (The Historic Environment); the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the national policies and guidance set out in the National Planning Policy Framework (NPPF), published March 2012.

- 6.2.2 In combination this above suite of policies require seek to ensure that all development protects and enhances the historic built environment and is appropriate in design, use of materials and character. Extracts from the relevant policies are given below.
- 6.2.3 CS5 (Countryside and greenbelt) – *‘New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. ... Open market residential conversions will only be considered where respect for the heritage asset (as also required by Policy CS17) and high standards of sustainability are achieved; ... In all cases, development proposals should be consistent with the requirements of Policies CS6 and CS17.’*
- 6.2.4 CS6 (Sustainable design and development principles) – *‘To create sustainable places, development will be designed to a high quality using sustainable design principles, ... which respects and enhances local distinctiveness ... This will be achieved by ... ensuring that all development ... Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, ...’*
- 6.2.5 CS17 (Environmental networks) – *‘Development will identify, protect, enhance, expand and connect Shropshire’s environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development: ...*
 - *Protects and enhances the diversity, high quality and local character of Shropshire’s ... built and historic environment, and does not adversely affect the visual, ... [or] ...heritage ... values and functions of these assets, [or] their immediate surroundings ... ;*
 - *Contributes to local distinctiveness, having regard to the quality of Shropshire’s environment, including landscape ... and heritage assets,’*
- 6.2.6 MD2 (Sustainable design) – *‘Further to Policy CS6, for a development proposal to be considered acceptable it is required to:*
 1. *Respond positively to local design aspirations, wherever possible, both in terms of visual appearance and how a place functions, ...*
 2. *Contribute to and respect locally distinctive or valued character and existing amenity value by: ...*
 - ii. *Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and*
 - iii. *Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; ...’*
- 6.2.7 MD7a (Managing housing development in the countryside) – *‘1. Further to Core*

Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located ... residential conversions will be positively considered where they meet ... other relevant policy requirements. In the case of market residential conversions, requiring planning permission, the conversion of buildings to open market use will only be acceptable where the building is of a design and form which is of merit for its heritage/ landscape value, minimal alteration or rebuilding is required to achieve the development and the conversion scheme would respect the significance of the heritage asset, its setting and the local landscape character. ...'

Explanation: '...New housing development will be focused in strategically agreed locations (as set out in Core Strategy Policy CS1) and Community Hubs and Clusters as identified in MD1. Local Plan policies however, also allow ... residential conversions in the countryside as sustainable housing solutions to ... help secure the future of buildings which are valued as heritage assets. ...'

6.2.7 MD13 (Historic environment) – *'In accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by:*

- 1. Ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.*
- 2. Ensuring that proposals which are likely to affect the significance of a designated or non-designated heritage asset, including its setting, are accompanied by a Heritage Assessment, including a qualitative visual assessment where appropriate.*
- 3. Ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting, will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect. In making this assessment, the degree of harm or loss of significance to the asset including its setting, the importance of the asset and any potential beneficial use will be taken into account. Where such proposals are permitted, measures to mitigate and record the loss of significance to the asset including its setting and to advance understanding in a manner proportionate to the asset's importance and the level of impact, will be required.*
- 4. Encouraging development which delivers positive benefits to heritage assets, as identified within the Place Plans. Support will be given in particular, to proposals which appropriately conserve, manage or enhance the significance of a heritage asset including its setting, especially where these improve the condition of those assets which are recognised as being at risk or in poor condition.'*

Explanation

3.131 Whilst this policy is closely related to sustainable design (CS6 and MD2) and the conservation of Shropshire's natural environment (CS17 and MD12) it sets out specific guidance on the protection of Shropshire's historic environment, including the requirements that need to be met for those development proposals

which are likely to have an impact on the significance, including the setting, of a heritage asset.

3.132 Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets. ...

3.133 Non-designated heritage assets include structures, features or deposits with archaeological interest, historic buildings, historic farmsteads, the historic character of the landscape as expressed in the patterns of fields, woods and heathlands and the locally distinctive character of settlements. The latter includes locally derived building materials and the distinctive forms, details and design of buildings. Policy MD2 requires new development to respect, enhance or restore the historic context of buildings. The Shropshire Historic Environment Record sets out Shropshire's non-designated heritage assets.

3.134 Through their contribution to the character of the county, heritage assets play an important role in promoting economic regeneration and growth.

3.135 This policy is based on the following hierarchal approach:

- i. wherever possible, avoid harm or loss to the significance of heritage assets, including their settings;*
- ii. where development proposals can be justified in terms of public benefits which outweigh the harm to the historic environment, provide mitigation measures for any loss of significance to the affected heritage asset, including the setting;*
- iii. where a development proposal results in the partial or total loss of significance to an asset, including the setting, record and advance the understanding of that significance.*

3.136 In order that the degree of impact of a development proposal can be fully assessed it is essential that the significance of heritage assets including their setting, is fully understood. A Heritage Assessment is therefore required for any development proposals which is likely to affect the significance of a heritage asset, including its setting. Where necessary, the Heritage Assessment should include a qualitative visual assessment to show how the proposal affects the heritage significance of its surroundings. Heritage Assessments will be needed for any proposals within or affecting; the historic core of a settlement; a Conservation Area; a Listed Building; a Scheduled Ancient Monument; a World Heritage Site or a Registered Park and Garden; a Registered Battlefield and all non-designated heritage assets.

3.137 The Historic Environment SPD also sets out the level of detail that should be provided in a Heritage Assessment. This will be in proportion to the significance of the heritage asset and the scale of any impacts upon it. ...

Such assessments should be carried out well in advance and must be submitted with the planning application.

3.138 Heritage assets are a finite, non-renewable resource and great care must therefore be taken when determining applications which result in a loss of significance, either partial or total. Proposals adversely affecting either the

significance or setting of heritage assets will therefore be rejected unless the harm to the significance of the asset is outweighed by the public benefits of the proposal. In making this decision the significance of the asset, its level of importance, the degree of impact and opportunities for a viable beneficial use of the asset will be taken into account. Proposals which would result in harm, or a loss of significance, to a designated heritage asset, including the setting, will be determined in line with national policy.

3.139 Where the public benefits of a proposal are deemed to outweigh the loss of significance, measures to mitigate the loss will be required. These may include but are not limited to, design or landscaping measures (in accordance with MD2) and/or the use of appropriate building materials or construction methods. The submission of additional information relating to these for prior approval may sometimes be necessary. In addition, the preparation of a comprehensive record of the asset by a suitable qualified person, in a manner proportionate to the significance of the asset and the impact of the proposal, may be required. A copy of the final report should be deposited in the Shropshire Historic Environment Record within an agreed time period, where it will be made publically accessible. When required a report should also be published in an appropriate manner. Any resulting archive should be deposited with the Shropshire Museum Service, again within an agreed timescale. Further guidance on mitigating measures and the recording of heritage assets is provided within the Historic Environment SPD.

3.140 Shropshire has a rich diversity of heritage assets, which make an important contribution to the county's character and local distinctiveness. Development proposals offer valuable opportunities to enhance the historic environment, including by achieving the aspirations set out within the Place Plans. This may involve improving the condition of heritage assets and their settings, and/or enhancing or better revealing their significance, particularly for those assets recognised as being at risk. Proposals should also seek to increase the connectivity between assets to provide benefits to both the natural and historic environment in accordance with Policy CS17.

6.2.8 Housing SPD – ‘2.27 Core Strategy Policy CS5 sets out the basis for the control of development in the countryside and makes provision for the conversion of suitable rural buildings for employment, residential and other appropriate uses such as community or heritage facilities. ...

2.28 The emphasis of Policy CS5 is on improving the sustainability and resilience of rural communities. There is recognition of the need to manage the nature of development through providing criteria to achieve a quality of development which protects the character and setting of the buildings and the countryside which takes into account environmental considerations. There are specific links between Policies CS5, CS6 and CS17 and additional criteria on sustainability requirements are given as part of Policy CS6 ... Conversion design guidance, such as that produced by English Heritage, will also inform the approach to considering applications.

2.29 Core Strategy Policy CS5 allows conversion of existing buildings that are considered a “heritage asset” into open market dwellings. “Heritage assets”

normally: • pre-date 1950; • comprise traditional materials and building methods; • are of permanent and substantial construction; • are of local significance and add value to the landscape ...'

6.2.9 National Planning Policy Framework (NPPF) – Section 12 Conserving and enhancing the historic environment –

126. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;*
- the desirability of new development making a positive contribution to local character and distinctiveness; and*
- opportunities to draw on the contribution made by the historic environment to the character of a place.*

135. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

6.2.10 Making Changes to Heritage Assets Historic England Advice Note 2 (Feb 2016) – para 15. 'Doors and windows are frequently key to the significance of a building. Replacement is therefore generally advisable only where the original is beyond repair, it minimises the loss of historic fabric and matches the original in detail and material. Secondary glazing is usually more appropriate and more likely to be feasible than double glazing where the window itself is of significance. As with the building as a whole, it is more appropriate to deal with timber decay and similar threats by addressing the cause of the decay rather than treating the symptoms but where remedial works are shown to be necessary, minimum interference to achieve reasonable long term stability is the most sustainable approach. ...'

6.2.11 The main issue therefore is the impact of the replacement windows on the character and appearance of the host building. The building is considered to be a non-designated heritage asset and therefore of some historical, architectural and visual importance within the local area.

6.3 **Detail, design and impact on non-designated heritage asset**

6.3.1 The Councils' Historic Environment Team has been consulted on the application. Regard having been given to the relevant planning policies, the Conservation Officer has consequently submitted the following comments, which are quoted in full, in relation to the detail, design and impact on character:

6.3.2 *'In principal the sensitive adaptation and re-use of redundant places of worship is*

generally supported from a conservation perspective, where such buildings have become redundant from their original function and are practically capable of re-use, as this can secure their longer term conservation as important historic elements within the landscape/street scene.

- 6.3.3 *An approach to conversion (and continued use) is recommended which utilises the existing layout, form, fenestration and architectural detailing (both internally and externally) as far as possible, to ensure the ecclesiastical character of such buildings is not diminished through inappropriate and incongruous alterations and additions. As such, permitted development rights for a number of alterations (such as extensions and replacement windows, doors and other features) were removed when consent was granted for conversion, to provide an extra level of planning control to ensure any changes are appropriately managed.*
- 6.3.4 *The building previously featured its original rounded arched multi-pane cast iron windows featuring extremely fine glazing bars, the classical design of the original windows formed a major element within the overall design of the chapel, and made a significant contribution to its character and significance as a heritage asset.*
- 6.3.5 *The existing windows (which were installed without the benefit of prior consent) are of substantially thicker proportions featuring storm proof opening casements, and in terms of design make no reference to the fine classical design and proportions of the original windows. The windows are also constructed in uPVC, and are finished in a particularly artificial and synthetic mock timber finish. The overall design, materials and finish of the replacement windows are considered to be inappropriate, and represent an incongruous alteration which has served to significantly detract from the character of the building.*
- 6.3.6 *The issues with sound and thermal efficiency with the original windows are fully appreciated, however it is considered that the desired improvements could successfully be achieved by other means, either through sensitive refurbishment, draft stripping and secondary glazing of the original windows, or appropriately designed replacements.*
- 6.3.7 *It would appear that a stainless steel flue has also been installed on the western gable, which is considered to be a further incongruous and alien addition, and does not appear to benefit from formal consent- such services should be routed internally where possible.*
- 6.3.8 **Recommendation:** *The replacement of windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and replacement with incongruous windows of inappropriate design, proportions and materials. This has served to significantly detract from the character of the building, equating to less than substantial harm to its significance as a heritage asset.**
- 6.3.9 *The application is therefore considered contrary to policies CS5, CS6 and CS17 of the SC Core Strategy, and MD7(a) and MD13 of SC SAMDev. In addition, as the application affects a non-designated heritage asset, para 135 of the NPPF is relevant in this instance. This required a balanced judgement to be made taking*

into account the significance of the non-designated heritage asset and the scale of harm/loss. Given that the works undertaken have resulted in the loss of principal architectural features, it is considered that the scale of loss is high, and therefore this should be given substantial weight in any decision.

- 6.3.10 NB*: Within the Conservation Officer recommendation in paragraph 6.3.8 above Members may note the use of the phrase '*less than substantial harm*' in relation to the significance of the heritage asset. To expand upon the use of the phrase, at paragraph 132 the NPPF states that '*Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.*'
- 6.3.11 The NPPF goes on to refer to harm as either '*substantial harm*' or '*less than substantial harm*'. Further guidance is given in the NPPG, which advises at paragraph 017 that '*In general terms, substantial harm is a high test, so it may not arise in many cases*'. For example '*partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm*'.
- 6.3.12 Bearing the assessment of '*substantial harm*' in mind, the Council's Conservation Officer considers that it would be difficult to argue that harm equates to substantial harm in this case, as the works have not resulted in a total or fundamental loss of significance such as partial demolition or significant re-configuration. However, it is the view of the Conservation Officer that the removal of the windows has resulted in the loss of principle architectural features, and therefore it is considered that the impact is at the higher end of '*less than substantial harm*' in this case.
- 6.4 **Other material considerations**
- 6.4.1 It is a requirement of planning law that planning applications be determined in accordance with the development plan, unless other material considerations indicate otherwise. Notwithstanding the fact that there is some local support for this proposal from neighbours, the Parish Council and the Local Member, it is the view of the Council's professional officers that the proposal is significantly harmful to the character of the host building. On this basis the proposal is considered to be non policy compliant by officers. As such it follows that officers consider that the development plan indicates that the proposal should be refused.
- 6.4.2 No other material planning considerations have been brought to the attention of officers that would indicate otherwise. Indeed, on the contrary officers are aware of an appeal dismissal that reinforces the case for refusal. Appeal decisions are material planning considerations. Appeal reference APP/C2708/D/14/2227808 (dated December 2014) raised similar issues to the current case in that the proposal involved replacement uPVC windows in an unlisted agricultural conversion outside a conservation area. The appeal Inspector raised particular concerns about the heavy profile and bulky appearance of the new upvc windows; their colouration and the arrangement of the lights and panes all in comparison with their traditional counterparts and all detracting from the intrinsic character and traditional appearance of the original building. At paragraphs 9 and 10 of the appeal decision the appeal Inspector concluded:

6.4.3 9. *‘Overall, I conclude on the main issue that the proposal would materially harm the character and appearance of the host building and the local area. Accordingly, it conflicts with Policy H20 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan. This policy aims to ensure that development respects the original building with particular regard to design, proportions and materials and has no adverse effect on the street scene.*

6.4.4 10. *The appeal scheme would also be contrary to National Planning Policy Framework, which aims to ensure that planning achieves a high quality of design and that development responds to local character and adds to the qualities of an area.’*

6.4.5 A copy of the referenced appeal decision is appended to this report as Appendix A.

7.0 **CONCLUSION**

7.1 Officers conclusion on this matter is that the application should be refused for the following reason(s):

7.2 It is considered that the replacement of the existing windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and further that the replacement windows that have been installed are incongruous windows of inappropriate design, proportions and materials. The Local Planning Authority considers this has served to significantly detract from the character of the building, harming its significance and diminishing its' value as a local heritage asset. The application is unsupported by a Heritage Assessment to demonstrate or provide justification otherwise. On balance, therefore, the application is considered contrary to adopted planning policies CS5, CS6 and CS17 of the Shropshire Core Strategy; MD2, MD7(a) and MD13 of Shropshire SAMDev Plan and the Supplementary Planning Document on the Type and Affordability of Housing, together with the national guidance set out in section 12 and paragraph 135 of the NPPF.

7.2 Despite the council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 187, the proposed development is contrary to the policies set out in the officer report and referred to in the reasons for refusal.

7.3 As noted within paragraph 6.3.7 above, *‘... a stainless steel flue has also been installed on the western gable, which is considered to be a further incongruous and alien addition, and does not appear to benefit from formal consent ...’* As such the flue is currently also unauthorised. The Conservation Officer reference to the flue as an *‘incongruous and alien addition’* indicates that it would also be unlikely to be supported if an application to seek consent for its retention in retrospect was to be submitted.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

MD13 - Historic Environment

Settlement: S17 - Wem

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

NS/03/00450/FUL Change of use of former Methodist Chapel to form one dwelling; formation of garden/amenity area; installation of cess-pit; formation of vehicular accesses CONAPP 18th December 2003

10/02797/FUL Erection of an agricultural storage and lambing building GRANT 25th August 2010

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Pauline Dee Cllr Chris Mellings
Appendices APPENDIX A – Appeal decision

Appendix A

Appeal Decision

Site visit made on 4 December 2014

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 18 December 2014

Appeal Ref: APP/C2708/D/14/2227808

1 Holmefield Farm, Sutton-in-Craven, Keighley, Yorkshire BD20 8DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Susan Needham against the decision of Craven District Council.
 - The application Ref 66/2014/14739 was refused by notice dated 15 August 2014.
 - The development proposed is to replace – ground floor window with same size french doors. Doors will open onto private garden. Window is now timber frame; replacement French door will be a white plastic uPVC frame – the plastic frame will be specially made to fit the current size of the original window.”
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the host building and the local area.

Reasons

3. The appeal property is a dwelling that forms part of one of a small group of converted rural buildings that lie on the outskirts of Sutton-in-Keighley. In my opinion, the residential conversion of the building to which No 1 belongs has essentially and successfully retained the simple form and traditional appearance of a former farm building. The consistent use of traditional external materials within the building including timber-framed windows and doors reinforces this impression. To my mind, this building positively contributes to the semi-rural character of the local area.
4. The proposal is to replace a large ground floor painted timber-framed window in the side elevation with French doors, which would include white uPVC frames. Compared to the existing window, which has two top hung opening lights set over two fixed lights and an arched top section, the new replacement would have two full-length side hung glazed units that would open outwards onto an external paved area. The proposal would be tailor made to fit into the existing aperture and so there would be no change to the size or shape of the opening in the wall.

5. Due to the heavy profile of the new uPVC window frames, which would be thicker than their timber counterparts, I consider that the proposed replacement would have a bulky appearance in the side elevation of the main building. The plastic quality of the uPVC frames, prominent by their white colour, would be discernible at some distance from Holme Lane on the approach to the site and at close range from the adjacent car park. In these views, the upper part of the new French doors, projecting significantly above the adjacent stone boundary wall, would be evident. In my judgement, the stark and mechanical finish of white uPVC would draw the eye given the sharp contrast with the timber-framed windows in the remaining elevation and detract from the intrinsic character of the appeal property.

6. In addition, the arrangement of the new windows with two long fixed lights would noticeably differ to the existing window, which is divided roughly equally into four equal-sized panes. The new arrangement would alter the proportions of the window with a thick vertical central dividing uPVC section. That the proposal would be visually read with the adjacent timber-framed window that serves No 3 would accentuate its harmful visual impact because it would draw attention to the inconsistent window design and external materials in the main building.

7. As a prominent elevation in the street scene and given that the traditional style of the building and others in the same group has been retained, it would seem appropriate to require the use of appropriate external materials to ensure that the character and appearance of the building is not unduly eroded. For the reasons given, that would not be the case with the proposal before me. While I recognise that similar style doors have been fitted in the opposite side elevation to the proposal to serve a neighbouring dwelling, these have painted timber frames and so are not directly comparable with the appeal scheme.

8. I saw that several buildings in the vicinity of the site have been fitted with a variety of replacement windows and doors including white uPVC. Although most of these properties are visible from the road, uPVC appears not to be locally distinctive nor is it a type of material that is defining characteristic of older buildings in the area. Furthermore, in my judgement the use of uPVC windows and doors has mostly had a dominant effect in the appearance of the host building and diminished the visual quality of the street scene of which it forms part. These examples do not, therefore, provide a sound justification for the proposal. In any event, each case should be considered on its own merits, which I have done in this instance.

9. Overall, I conclude on the main issue that the proposal would materially harm the character and appearance of the host building and the local area. Accordingly, it conflicts with Policy H20 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan. This policy aims to ensure that development respects the original building with particular regard to design, proportions and materials and has no adverse effect on the street scene.

10. The appeal scheme would also be contrary to National Planning Policy Framework, which aims to ensure that planning achieves a high quality of design and that development responds to local character and adds to the qualities of an area.

11. With regard to other matters, I see no reason why well-designed and maintained timber windows should be more expensive, less clean or less durable than their uPVC counterparts. By providing an additional exit from the existing dwelling, especially as an escape in an emergency, the proposal would have obvious safety benefits. However, these considerations do not outweigh the harm that I have identified.

12. The size of the aperture would remain the same and so I doubt that the proposal would, in itself, lead to a significantly greater level of overlooking of the neighbouring property than would otherwise be the case. With direct access provided from the main dwelling, the new French doors might result in the greater use of the external area onto which they would face. However,

the use of this external space is not dependent on this access arrangement and the potential for noise and general disturbance is not necessarily proportional to the likely level of use. Consequently, I consider that there would be no material harm to the residential amenity of neighbouring occupiers.

Conclusion

13. Nevertheless, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR



Committee and Date

North Planning Committee

22nd August 2017

Item

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Public

Development Management Report

Responsible Officer: Tim Rogers

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SCHEDULE OF APPEALS AS AT 22ND AUGUST 2017

Appeals Lodged

LPA reference	17/01198/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr L Whiston – C/O L S PLanning
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	Agricultural Building At Bank House Dark Lane Old Woodhouses Whitchurch
Date of appeal	04.08.17
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

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