



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

Date: Monday, 11 September 2017

**Committee:**  
**North Planning Committee**

**Date:** Tuesday, 19 September 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](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 22<sup>nd</sup> August, attached, marked 2. **Minutes to Follow**

Contact: Shelley Davies on 01743 257718.

## 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 14<sup>th</sup> August 2017.

## 4 Disclosable Pecuniary Interests

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

## 5 The Primitive Chapel, Pool Head, Wem, Shropshire, Shropshire (17/02628/FUL) (Pages 1 - 18)

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

## 6 Property Known As The Lodge, Ellerton, Newport, Shropshire, TF10 8AW (17/01875/FUL) (Pages 19 - 42)

Restoration alterations and extensions to existing dwelling and erection of new dwelling

## 7 Property Known As The Lodge, Ellerton, Newport, Shropshire, TF10 8AW (17/01876/LBC) (Pages 43 - 54)

Restoration alterations and extensions to existing dwelling and erection of new dwelling

## 8 Appeals and Appeal Decisions (Pages 55 - 68)

## 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 17<sup>th</sup> October 2017 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date  
North Planning Committee  
19<sup>th</sup> September 2017

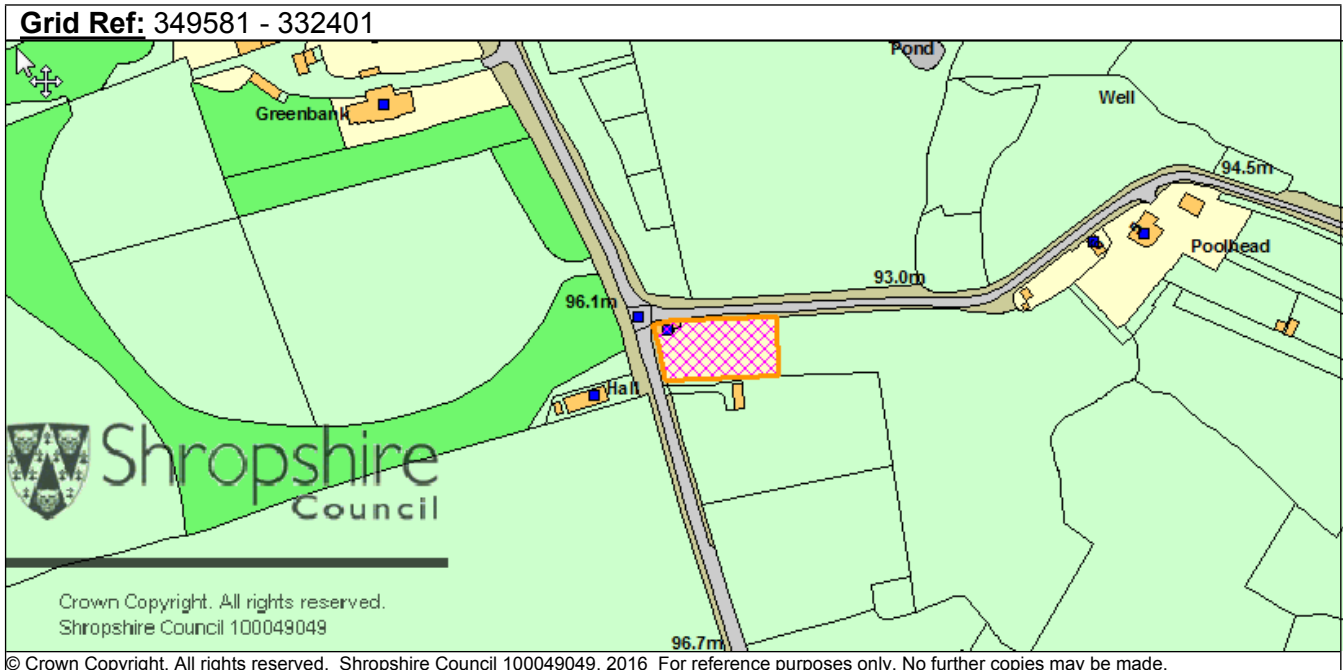
Item  
**5**  
Public

## Development Management Report

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

### Summary of Application

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



**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

This application is presented to Committee having been deferred from the August meeting at which members expressed differing views, with regards to the application. Some expressed the view that the new windows did not harm the character of the Chapel and were in keeping with the property. Other Members supported the Officer's recommendation and considered the replacement windows to be unsympathetic to the character of the building.

On being put to the vote the motion to refuse the application as per the Officers' recommendation fell.

On being put to the vote the motion to approve the application contrary to the Officers' recommendation fell on the casting vote of the Chairman. The application was not therefore determined and accordingly is now presented to the September Committee for a planning decision.

### 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 18<sup>th</sup> 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 Councils' 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 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)
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Cabinet Member (Portfolio Holder)
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Cllr R. Macey
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Local Member
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Cllr Pauline Dee
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Cllr Chris Mellings
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Appendices
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APPENDIX A – Appeal decision
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## 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

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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.”

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### 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  
 19<sup>th</sup> September 2017

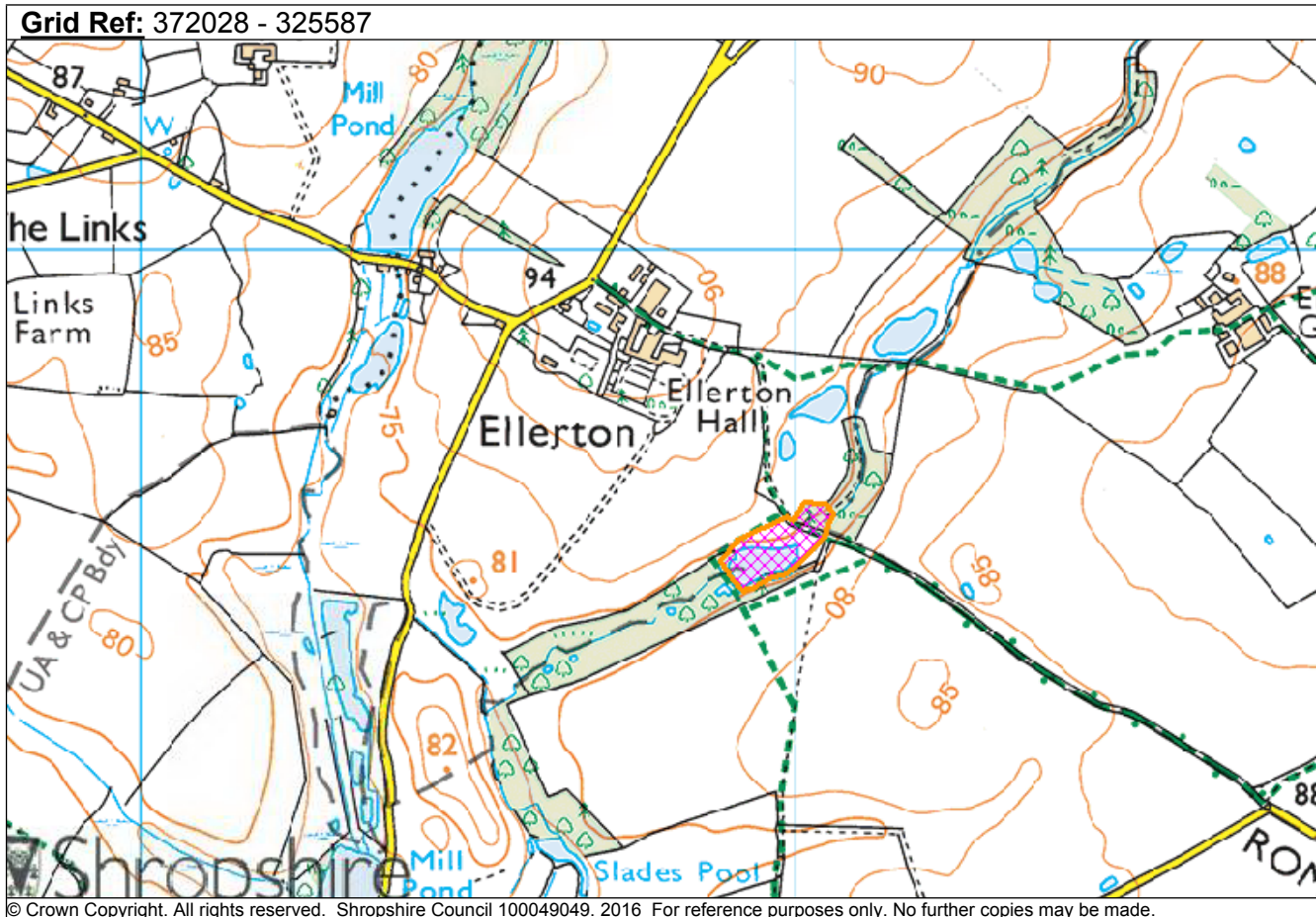
Item  
**6**  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 17/01875/FUL	<b>Parish:</b> Cheswardine
<b>Proposal:</b> Restoration alterations and extensions to existing dwelling and erection of new dwelling	
<b>Site Address:</b> Property Known As The Lodge Ellerton Newport Shropshire TF10 8AW	
<b>Applicant:</b> Mr and Mrs Pariera	
<b>Case Officer:</b> Karen Townend	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>



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

- 1.1 This application, in addition to an associated listed building application, seeks consent for the erection of a new detached dwelling and restoration and extension of the listed building to create an annexe. Works are also required to create an access drive, install services and landscaping.
- 1.2 The detached dwelling will be a three bed property with an open plan living/ dining/ kitchen area, utility room and three garages. The listed building will become a one bed annex.
- 1.3 In support of the application the agent/ architect has submitted full plans, visual impression drawings, a design and access statement, heritage statement, protected species survey and updated survey report.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site area is 1.68 hectares, located in an area designated as countryside in the planning policy. It lies on the boundary between Shropshire and Telford and is accessed via a farm track leading between Ellerton House Farm and Ellerton Hall. In the immediate area Ellerton is a small settlement made up of a range of large detached country houses, small cottages and farm building conversions to the east of Hinstock. The application site is within agricultural land and, other than the settlement, is within open fields.
- 2.2 The application site currently consists of an area of grassland, a pool of 0.47 hectares and a small grade II listed building which is octagonal in shape, built of red sandstone and slate. The land slopes down to the pool and also contains a number of trees on the higher ground. The site is not currently enclosed by any means other than field boundaries.
- 2.3 The listed building, now referred to as The Lodge but previously referred to as the Toll House, has an octagonal footprint and is constructed of sandstone block work. It is two storey and has a pitched roof; though this was probably an addition that was added during the late 20<sup>th</sup> century. The building also has octagonal shaped windows at first floor. The existing building is small with a footprint that measures just 34.5 square metres and is 6.3 metres in height to its ridge. The building contains two small rooms; one on each floor and a staircase. The building contains fire places and internal doors which date from the Mid 19<sup>th</sup> century and indicate that that the building did have some type of residential use. The building appears to have been occupied by people employed by the various owners of the hall. The most recent use of the building was as a holiday let up until the late 1980's when it was used as a fishing lodge.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council has expressed a view which is contrary to the Case Officer recommendation. In accordance with part 8 of the Council Scheme of Delegation, and the onward delegation, the local member was consulted to determine whether

they consider the comments of the Parish Council justified committee determination of the application. No specific opinion was received and therefore the matter was discussed with the Chair and Vice Chair of the Planning Committee who decided that the application should be considered by the planning committee due to the Parish Council comments and also the previous decision being a committee decision.

#### **4.0 COMMUNITY REPRESENTATIONS**

##### **Consultee Comments**

- 4.1 **Parish Council** – 25.08.17 – The Parish Council objects to this application. The proposals do not justify section 55 status for a new build in open countryside as the design is not of significant architectural merit. The members do not consider that the design meets the “truly outstanding or innovative” requirement of Section 55 of the NPPF and the proposed build would not enhance the immediate surroundings.

23.06.17 – The proposals were studied by the Councillors who noted the application had been made using section 55 (grand design) in order to qualify for exception status. Councillors agreed that the viability of the guest house was not dependent on a new residence. Dimensions of proposed dwelling were checked. Councillors queried whether the proposals justified section 55 status. They did not agree that the design was of significant architectural merit. Councillors do not feel the plans meet the "not truly outstanding or innovative" does not enhance the immediate surroundings - all agreed to object.

- 4.2 **Conservation** – There have been a number of previous applications which have been approved on this site, which have entailed the restoration and extension of the listed building with a large modern dwelling, immediately abutting the historic building and extending into the hillside to the rear. These have been renewed and the latest is still extant. This application has been subject to pre application advice from Conservation and Planning Officers.

In considering the proposal, due regard to the following local policies and guidance has been taken, when applicable: SC Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), SC SAMDev policies MD2 (Sustainable Design), MD13 (The Historic Environment), and with national policies and guidance: National Planning Policy Framework (NPPF), published March 2012. Section 66(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies.

The proposals for the restoration of the listed building are largely based on the details of the previous consent, and are therefore supported. The small extension now proposed to the rear of the building is considered to be appropriate, reflects the form of the existing building, and minimizes the impact on historic fabric. There are interventions to the historic building proposed internally, including the removal of a later staircase and partition, and it is recommended that the removal of such features is subject to a condition ensuring their recording. Any approval should also be subject to conditions for all materials, which would need to be agreed prior to commencement.

The proposal to relocate the majority of accommodation from within an attached building as a separate, but linked, dwelling is deemed appropriate as it will enable

the retention of the historic building in a relative scale and form which is closest to its original state whilst permitting its restoration. The design rationale for the new building is clear – sustainable building features have been incorporated, its orientation and massing have been planned for it to appear less visible in the views from and towards the listed building, and it has the potential to enhance its setting. It enables the retention and long term future of the listed building, which would be tied to the main site in perpetuity. In summary, it is felt that the scheme now being proposed is appropriate as it has less of an impact upon the fabric of the Listed Building and would complement its unique setting.

It is acknowledged that the proposal does constitute a separate, yet co-owned element to the listed building, but having regard to the previous permissions, it is considered that the proposal is an acceptable form of development which preserves and enhances the character and fabric of the listed building and as such is supported by officers.

The restoration of the listed building should be of paramount importance; any permission should be predicated on the first phase of works being for the restoration of the listed building, which would be carried out with a number of related conditions.

- 4.3 **Historic England** – On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.
- 4.4 **Highways** – No objection subject to the development being constructed in accordance with the approved details and the recommended informatives.

The site is on land to the south of Ellerton Hall, Ellerton near Hinstock in North Shropshire. It includes an existing building which has variously been called the Lodge and the Tollhouse probably because of its shape as there are no roads nearby. It should be pointed out that as the applicant has chosen to use the name The Lodge, Ellerton that it should not be confused with Ellerton Lodge on the junction of the U3148 and the C2098 opposite Ellerton Hall. The Lodge, Ellerton is on the Local Authority boundary between Shropshire and Telford and Wrekin. This is an agricultural area with scattered farms and some dwellings but few roads.

The proposal is to refurbish The Lodge, build a sympathetically designed extension and join them with a glass corridor to make it habitable for use as a home for the family who are building a large detached house nearby for their eventual family home after which The Lodge will become a guest house.

A private, internal farm track along which there is a restricted right of way, 0204/24/2 followed by Footpath 0204/24A/1 is the only access to the The Lodge from the highway which is the U3148 Sambrook to Goldstone road. In order to build the new house, an extension to the farm track is to be made utilising the path of 0204/24A/1 around the pool. The farm track acts as an access for the hall and the farm which are nearer to the highway.

Some consideration should be given to those who require access to the front doors, letterboxes and deliveries in general. The installation of secure gate-side post and



paper boxes should be considered. From the potential householders view, the length of driveway is the trip which they will have to make, weekly, to put out refuse and recycling bins for emptying. The recommended maximum distance is 25m. Smooth, level space is required at the road side for temporary storage of refuse bins and recycling boxes which must not be allowed to obstruct the highway or the visibility splay of the access. Collection is made from the roadside.

4.5 **Rights of Way** – The access to this development site from Ellerton Hall will be along Public footpath 24/24A, although not directly affected by the proposed development please ensure that the applicant adheres to the standard criteria to ensure the right of way remains open and unhindered.

4.6 **Ecology** – Recommend conditions and informatives.

#### Bats

In 2015 bat activity survey work was conducted at The Toll House. This confirmed the presence of non-breeding, day roosts of Common pipistrelle (max count 8), Soprano pipistrelle (max count 4), and Natterer's bats (max count 2). Common pipistrelle access was recorded in crevices between slate and felt. Soprano pipistrelle accessed via slipped mortar into a void between lead flashing and the wooden porch roof. Natterer's bat gained access to internal void via gaps in stone work. DNA analysis confirmed findings.

The development to the Toll House will be conducted under an EPS mitigation licence from Natural England. This will require updated bat activity survey work when applying for a licence. Alternative roosting provision, prior to works commencing on site, will be in the form of bat boxes. An ecological clerk of work will exclude bats and supervise soft demolition of the roof spaces and roosting structures at a time of year to avoid encountering bats. Temporary fencing should be erected around the structure to act as a lighting screen between the working area of the development and the immediate locality. Any flood lighting should be switched off at the minimum of 1 hour prior to sunset and any works required to be undertaken between dusk and dawn should not occur between mid-April and October, inclusive, thereby avoiding the active season for bats.

The provision of new roosting opportunities will be in the form of raised ridge tiles to mitigate for the loss of the original roosting features currently used by common pipistrelles and soprano pipistrelles. The inclusion of bat tubes within The Toll house structure will provide roosting opportunities for Natterer's bats.

An update walkover survey has been conducted by Mark Latham in 2017 and it confirms that there has been no material changes in relation to the presence of priority or protected species on site that would alter the conclusions and recommendations provided in the previous ecological report.

I have provided a European Protected Species 3 tests matrix for bats. The planning officer will need 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.

### Great Crested Newts

SC Ecology had liaised with Pearce Environment Ltd, read the previous ecological survey work for this site, and Fran Lancaster's previous consultation response for development of The Toll House. SC Ecology had removed the need for additional GCN survey work due to the presence of fish, the size of the development, and the survey work already conducted (admittedly out of date, but it is reasonably unlikely that there will be gcn present due to reasons listed in the Pearce Environment Ltd Report). SC Ecology has requested that a gcn method statement is submitted and conditioned on the decision notice. A working method statement for amphibians has been provided in Mark Latham's report (2017).

### Nesting Birds

Nesting opportunities should be provided for swallow in the form of one 'Schwegler' or 'woodcreate' type swallow box to be incorporated into the structures design.

- 4.7 **Drainage** – A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at: [www.shropshire.gov.uk/environmental-maintenance-and-enforcement/drainage-andflooding/flood-risk-management-and-the-planning-process](http://www.shropshire.gov.uk/environmental-maintenance-and-enforcement/drainage-andflooding/flood-risk-management-and-the-planning-process).

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

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

### 4.8 **Public Comments**

- 4.9 Site notices and a press notice were produced to publicise the application and the site notices were erected by the case officer on the 25<sup>th</sup> May 2017 adjacent to Ellerton Hall on the access track to the site. This track serves as a public right of way and as such the site notices were considered to be appropriate publicity for the proposed development.

## 5.0 **THE MAIN ISSUES**

- Principle of development, relevant policies and history of site
- Siting, scale and design of dwelling
- Siting, scale and design of alterations and extension to listed building
- Access, parking, turning and rights of way
- Ecology, landscaping and drainage

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Principle of development, relevant policies and history of site**

- 6.1.1 Planning permission has previously been granted four times for extending the existing building to create a single dwelling. The first approval was designed as a

number of octagonal sections around the existing building. The later approvals were for a large two storey section linked by a single storey connecting extension to the existing building. The most recent consent is from 2015 and as such is still an extant consent which could be developed. The previous consents are a material planning consideration in the determination of the current planning application.

- 6.1.2 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.3 The development plan is the Shropshire Core Strategy and the Shropshire Site Allocations and Management of Development Plan (SAMDev). Specific policies relevant to this application are CS5, CS6, CS17 & CS18 of the Shropshire Core Strategy and MD2, MD7a, MD12 and MD13.
- 6.1.4 CS5 deals with development in the countryside and, in compliance with the NPPF, seeks to strictly control development to ensure that development maintains and enhances countryside vitality and character. The policy lists developments which may be acceptable in the countryside, including conversion of existing heritage assets. CS5 does not support new open market houses in the countryside and this view has been supported by a number of recent appeal decisions. CS6 is a general policy requiring all development to be, amongst other things, sustainable and of high quality.
- 6.1.5 CS17 requires development to protect and enhance the environmental and heritage assets of the County by ensuring that development is of a high quality and does not adversely affect the historic environment or ecological values and functions. CS18 relates to drainage and sustainable water management and requires all development to reduce flood risk and avoid adverse impacts on water quality and quantity.
- 6.1.6 MD2 expands on CS6 in seeking to ensure development is sustainably designed by ensuring that development responds to local design aspirations, local distinctiveness and character and also expands on CS17 in requiring development to protect, conserve and enhance historic context and incorporate natural assets. Policy MD7a reiterates CS5 in strictly controlling housing outside of the identified settlements except where needs are proven for affordable housing or conversion of heritage assets. MD12 provides greater detail on the consideration of development on the natural environment and provides advice on information requirements and MD13 is similar for historic environment but also provides detailed policy on consideration of development which is likely to have an impact on a heritage asset.
- 6.1.7 The application was initially submitted, as detailed in the D&A, as a Section 55 of

the NPPF dwelling on the basis that the architect considered the design and construction to be exceptional and the proposal was for enabling development. S55 of the NPPF relates to new housing proposals outside of settlements. It states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances. These include agricultural workers dwellings, reuse of redundant or disused buildings (conversions) and:

- Where development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets (enabling development); or
- The exceptional quality or innovative nature of the design of the dwelling is truly outstanding or innovative, helping to raise standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.

- 6.1.8 Council Officers did not agree with the agent's conclusion. The proposed dwelling is not exceptional as noted by the Parish Council in their objection. The design and construction methods are not new, not breaking boundaries or new technology and have been done before. In reaching this view officers have taken into account a 2015 appeal decision in the Kent Downs, which dealt with a S55 dwelling, the Inspector in that decision advised that to meet S55 the new dwelling has to be truly outstanding and of the highest standard of design. He acknowledged that one-off houses frequently take unusual forms but this is not the same as being innovative. The proposed dwelling on this site is considered to be similar to the Kent Downs proposal in that it is not outstanding, innovative or of the highest standard. As such the dwelling was not considered to be capable of being approved under S55.
- 6.1.9 Furthermore, as noted by the Parish Council's first objection, the restoration of the listed building, the Lodge, is not reliant on the finances gained from constructing the new house. The new house is not to be sold off to fund the listed building works and it is not the applicant's case that the financial cost of restoring the listed building requires the construction of new build development. As such the scheme is not strictly an enabling development when considered against the Historic England guidance for enabling development. Within the revised D&A the agent has acknowledged this and suggested that the new dwelling is facilitating the works to the listed building.
- 6.1.10 However, officers acknowledge that the proposed dwelling is of design and construction method that is non-standard and the applicant's aim is to provide a dwelling which sits in the landscape, does not detract from the character of the listed building and is carbon neutral, potentially carbon positive. The construction of a house will also ensure the restoration of the listed building and this is a material consideration in the application. This has previously been accepted by the granting of the previous consents to extend the building to create a dwelling. The previous consents have also accepted, as noted in the updated D&A, that sufficient accommodation to provide a family dwelling needs to be constructed on site.
- 6.1.11 The current view of the applicant and officers concerned, including the Council Conservation Officer, is that the previous proposals were all additions to the listed building which, although were acceptable, would also have significantly altered the character of the listed building. This application is for a smaller addition to the

listed building to enable its use as an annex and the construction of a detached dwelling. The revised D&A comments that the proposed floor area of the current scheme is around 20 percent less than the floor area of the previous consent. Pre-application advice was sought prior to submitting the application and the principle of a new dwelling was considered favourably.

- 6.1.12 The previous consent, which remains a valid consent and could be constructed, is also a material consideration which needs to be given weight in the determination of the current application. The previous consent granted an extension which would provide a floor area of approximately 420sqm. In comparison the current proposal provides a floor area of approximately 310sqm. The design and scale of the proposed detached dwelling, and the addition to the listed building, are all considered to be appropriate for the site and the surrounding area, the scale of the current proposal is less than the previous approval and furthermore the design, building standard and materials go some way towards what would be considered acceptable as a S55 dwelling which can therefore also be given weight.
- 6.1.13 As such, although officers consider that the proposed dwelling and development of the listed building does not strictly comply with the adopted local plan policies or the guidance provided in the NPPF, including Section 55, there are material considerations which need to be given weight in the planning balance. The primary consideration is the extant consent, which is given substantial weight. This application proposes a development which officers consider will have less of an impact on the listed building, as detailed below. As such the current proposal is considered to be better than the extant consent. This is also a material consideration which officers consider should be given significant weight.
- 6.1.14 The restoration of the listed building, the site specific constraints and the extant consent are material considerations of this application which are considered to be sufficient to set aside the policy presumption against the development of a new dwelling in the countryside. These are exceptional circumstances which would not easily be repeated on other sites.

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

- 6.2.1 Policies CS5 and CS6 of the Core Strategy together with SAMDev policy MD7b seek to ensure that all development and is appropriate in terms of siting, scale, design and appearance, taking into account the local context and character.
- 6.2.2 As noted above the architect has worked through several schemes for the site before submitting the current application. It is the architect's opinion that the proposal as submitted is high quality architecture. The new build dwelling has been designed as a two storey building but by using the existing topography the house is set within the slope and the garaging is sited behind the dwelling. It is modern in its design, form and construction. It is T shaped with the stem of the T sitting in the bank of the land and providing the garage spaces. The front elevation includes large areas of glazing facing out over the pool. The submitted drawings and the D&A advise that the other walls will be finished in a light coloured render with timber decking, glass balustrades and a dark grey roof. However, the final finish colour of the dwelling is to be conditioned as officers have concerns that a light coloured finish may not be suitable for the site and would draw the eye from the lodge.

- 6.2.3 As detailed above the layout of the site has been considered to take advantage and retain as much of the existing landscaping as possible. Additional new planting is also proposed but without formal designation of a domestic curtilage. The principles set out in the amended plans and D&A are that the landscaping of the site is to remain natural and native and for the area closest to the house and lodge to be cut shorter but that the transition to the meadow areas will be soft.
- 6.2.4 The design is not exceptional or innovative, however it is also not a standard “housing estate” type house which would be seen in new development sites in market towns and villages. The design is individual for the plot and takes account of the site constraints and opportunities. Pictorial views of the proposed development in its setting have been provided by the agent and show that the dwelling will not be overly dominant and will respect the listed building.
- 6.2.5 The Council Conservation Officer’s comments are provided in full in section 4 above. Overall the Conservation Officer considers that the siting, scale and design of the proposed new dwelling is appropriate. This is also the opinion of the case officer and the scheme is considered to be appropriate when considered against the design requirements of the adopted development plan.
- 6.3 **Siting, scale and design of alterations and extension to listed building**
- 6.3.1 As noted above the existing building on site is a grade II listed building which is octagonal in shape, built of red sandstone and slate. It is named in the list entry as “The Round House” and described as a two storey lodge, early C19, octagonal in plan, sandstone with slate roof resting on posts at each corner has been listed since February 1987. The listing description suggests that the first floor may be a later addition due to the more regular masonry and dressings and the roof is also a later alteration or addition. The building is recorded as the former south-east entrance lodge to Ellerton Hall (not listed).
- 6.3.2 The work proposed to the listed building include the restoration of the sandstone walls to eaves height, the addition of a structural ring to support the walls, the construction of a faceted roof rising to a point, finished in slate. The addition, which will provide kitchen and bathroom, is to be of a similar plan form and roof shape but of a lower scale and also rendered so as to read as a subservient addition. A small glazed link will attach the extension to the original building.
- 6.3.3 Taking into account the previous approvals on the site which all proposed significantly larger additions to the listed building the current proposal is considered to be a substantial improvement on the previous schemes with regard to the direct impact on the listed building. The impact of the proposed detached dwelling is considered above. Overall the additions and alterations to the grade II building are considered to be acceptable, sympathetic and will not, on their own, result in loss of significance of the listed building.
- 6.3.4 The alterations now proposed are considered to minimise the impact on the historic fabric through utilising existing openings, the internal alterations are acceptable in principle though a condition is recommended so that features are recorded and damaged fabric is replaced with appropriate alternatives that are as close to the original as possible.

- 6.3.5 The extended lodge is provided with self-contained facilities. This is not normally accepted for annexed accommodation, however the site constraints mean that the annexe will be separate from the main dwelling and could not function with shared facilities. The new dwelling is proposed on the area of land which is most open so as to reduce the need to remove existing landscaping, it is also on a part of the site where the existing ground slope can be utilised. However, the services for the annexe will be combined with the services for the main house and the landscaping and access will link the two parts of the development. A condition is proposed to ensure that the annexe is only occupied as an annexe and not at any time sold or sublet.
- 6.3.6 The applicants have also advised that their intention is to undertake the works to the lodge first and occupy the lodge during the construction of the new dwelling. This can also be controlled by condition and will ensure that the works proposed to the listed building are carried out.
- 6.3.7 Overall the works proposed to the listed building are considered to comply with the principles set out in the NPPF and policies CS17 of the Core Strategy and MD2 and MD13 of the SAMDev. Furthermore, the development as proposed is considered to ensure the preservation of the listed building without detriment to its setting and features of architectural and historic interest in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.4 **Access, parking, turning and rights of way**
- 6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all. Policy D7 'Parking Standards' of the North Shropshire Local Plan is still a saved policy and indicates that all development should provide an appropriate level of vehicle parking to avoid on street parking and increasing traffic problems.
- 6.4.2 Vehicular access to the site is proposed via an existing track leading from the road between Ellerton Home farm and Ellerton Hall. The road serves both of these properties and a group of 4 properties created through previous conversion works. Within the submitted D&A the agent accepts that the site is remote from public transport and therefore reliant on the private car. The driveway follows the track, which is also a restricted right of way, to the existing lodge building. The proposed layout thereafter shows a driveway around the rear and front of the house to access garages.
- 6.4.3 The Council Highway Consultant has confirmed they have no objection to the development. The Consultant has advised that consideration should be given to provide gate-side post box etc and also that the applicant will need to be aware of the distance from the house to the highway for putting out waste/ recycling bins. These matters have been raised with the agent and applicant.
- 6.4.4 The Council Rights of Way Officer has confirmed that the proposal will not directly

affect the public footpath, however they have advised that the applicant will need to be aware of the right of way and the requirement for it to remain open and unhindered.

6.4.5 Overall, subject to the provision of appropriate waste storage area the proposed development will not have a detrimental impact on highway safety, capacity or public rights of way and sufficient space is provided within the site for parking and turning of vehicles. It is acknowledged that the site is not close to services, facilities or other means of transport. However, the development will not result in significant levels of traffic. The proposal for a single dwelling on this site has previously been accepted and it is considered that the need to restore the listed building is the principle aim which sets aside the poor sustainability of the site.

## 6.6 **Ecology, landscaping and drainage**

6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Ecology surveys were undertaken and submitted with the previous application, these have been submitted with this current proposal as they are less than 2 years old, however an addendum update report has also been submitted.

6.6.2 The submitted ecology survey focuses on bats and acknowledges that there is evidence of bats using the listed building but that the numbers are low and not maternity roosts. The survey recommends alternative roosting is provided during the demolition and construction works but that the roost options in the listed building are reinstated on completion of the development so as not to increase competition for feed sources or alter species composition. It is also recommended that works should be carried out when bats are least likely to be resident and also following further inspections and surveys. The survey also notes the potential for nesting birds and recommends the provision of artificial nests.

6.6.3 The addendum report advises that there have not been any material changes on site that would alter the conclusions and recommendations of the report on the previous planning application. The report confirms that no further surveys are required, including for bats, and that a site visit will be carried out prior to submission of the EPS licence as required by Natural England.

6.6.4 The Council Ecologist has considered all of the information submitted and confirmed that they have no objection and recommend conditions and informatives. With regard to bats, the main species affected by the works to the listed building, the development to the Toll House will be conducted under an EPS mitigation licence from Natural England and it is the Council's opinion, as detailed in the EPS 3 test matrix for bats at appendix 1 below, that the development is in the public interest and that there are no satisfactory alternatives for the reasons given in the matrix.

6.6.5 The application site lies within an existing landscape. The topography has been assessed by the architect and taken into account along with the existing landscape features and flora. The D&A comments that the proposed siting enables a significant proportion of the meadow grassland to be retained and also protects the



existing woodland. The development, as noted above, will have an impact on the existing landscape by the introduction of a new dwelling within the landscape. However, the siting of the dwelling has been considered so as to have the least possible impact on the landscape and is considered to be less harmful than the previous approvals. As such it should be acknowledged that there is an impact on landscape but the impact is outweighed by the material considerations previously referred to.

6.6.6 The D&A also comments that the proposed landscaping is purely treatment of the existing landscaping through the creation of informal paths, driveways and the cutting of the grass or planting with wildflower mix. The architect has requested that the landscape be allowed to evolve and mature and as such that conditions should not be imposed that would constrain the landscaping. This appears at first glance to be acceptable. However, the principles of retaining the existing character are commendable but without sufficient control the Council could not prevent the gardens evolving and maturing into highly formal gardens and thereby changing the context of the new dwelling. It is therefore recommended that a landscaping condition be added that only allows domestication of the area within the driveway immediately adjacent to the house and that beyond this driveway the grounds be retained as meadow with informal paths. Permitted development rights for outbuildings, fences etc should also be removed.

6.6.7 Foul drainage is proposed to be dealt with by a septic tank system due to the remoteness of the site from any mains drainage connection and due to the percolation results of the ground excluding the use of standard soakaways. A system has been specified in the foul drainage assessment form and will also be a matter for approval under the Building Regulations process. Surface water drainage for both the new dwelling and the extended listed building will be directed to soakaways. The Council Drainage Consultant has confirmed that the principles set out in the assessment are acceptable and not raised any objection. The details of the surface water drainage will need to be submitted for approval and a condition is therefore recommended.

## **7.0 CONCLUSION**

7.1 The proposed dwelling and development of the listed building does not strictly comply with the adopted local plan policies or the guidance provided in the NPPF, including Section 55. However, there are material considerations which need to be given weight in the planning balance. The primary consideration is the extant consent, which is given substantial weight. This application proposes a development which will have less of an impact on the listed building and its setting. The siting, scale and design of the proposed dwelling and the works to the listed building are considered to be acceptable and appropriate for the listed building and its setting.

7.2 Furthermore, subject to the provision of appropriate waste storage area the proposed development will not have a detrimental impact on highway safety, capacity or public rights of way and sufficient space is provided within the site for parking and turning of vehicles. Ecology mitigation and the landscaping of the site can be controlled by conditions along with the details of the drainage of the site.

7.3 Overall the proposed development is considered to comply with the principles of

policies CS6, CS17 and CS18 of the Shropshire Core Strategy, policies MD2, MD7a, MD12 and MD13 of the Shropshire Site Allocations and Management of Development and the National Planning Policy Framework. The scheme is also considered to ensure the preservation of the listed building without detriment to its setting and features of architectural and historic interest in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **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.

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

Application name and reference number:

17/01876/LBC &amp; 17/01875/FUL

Property Known As The Lodge

Ellerton

Newport

Shropshire

TF10 8AW

Restoration alterations and extensions to existing dwelling and erection of new dwelling

Date of consideration of three tests:

6<sup>th</sup> June 2017

Consideration of three tests carried out by:

Nicola Stone

Planning Ecologist

01743 252556

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

The development will ensure the restoration and protection of a listed building and as such the development is in the interest of the benefit of the wider public and the environment

**2 Is there ‘no satisfactory alternative’?**

There are no satisfactory alternatives that ensure the retention of the listed building. If the building is not restored it will fall into disrepair and demolition may be sought which would have a greater impact on bat populations

**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’?**

Bats

I have read the above application and the supporting documents including the Preliminary Bat Roost Assessment and Activity Survey conducted by Mark Latham (May 2015), and Update walkover survey conducted by Mark Latham (9<sup>th</sup> April 2017).

Dusk emergence surveys were undertaken on the evenings of 12<sup>th</sup> May 2015 and 17<sup>th</sup> June 2015, surveys were supplemented with automated passive detectors. Non breeding, day roosts of Common pipistrelle (max count 8), Soprano pipistrelle (max count 4), and Natterer’s bats (max count 2) were recorded. Common pipistrelle access was recorded in crevices between slate and felt. Soprano pipistrelle accessed via slipped mortar into a void between lead flashing and the wooden porch roof. Natterer’s bat gained access to internal void via gaps in stone work. DNA analysis confirmed findings.

The development of the Existing Toll House Building will be conducted under an EPS mitigation licence from Natural England. Alternative roosting provision, prior to works commencing on site, will be in the form of bat boxes. An ecological clerk ow work will exclude bats and supervise soft demolition of the roof spaces and roosting structures at a

time of year to avoid encountering bats. Temporary fencing should be erected around the structure to act as a lighting screen between the working area of the development and the immediate locality. Any flood lighting should be switched off at the minimum of 1 hour prior to sunset and any works required to be undertaken between dusk and dawn should not occur between mid-April and October, inclusive, thereby avoiding the active season for bats. The provision of new roosting opportunities will be in the form of raised ridge tiles to mitigate for the loss of the original roosting features currently used by common pipistrelles and soprano pipistrelles. The inclusion of bat tubes within the new structure will provide roosting opportunities for Natterer's bats.

The proposed activity will not be detrimental to the maintenance of bat species at a favourable conservation status within their natural range provided that the conditions detailed in the response from Nicola Stone to Karen Townend (6<sup>th</sup> June 2017) are on the decision notice and are appropriately enforced.

The following conditions and informatives should be on the decision notice:

#### **Condition**

1. Work shall be carried out strictly in accordance with the Preliminary Bat Roost Assessment and Activity Survey conducted by Mark Latham (May 2015) attached as an appendix to this planning permission.

**Reason: To ensure the protection of Bats, a European Protected Species**

2. No development, demolition or site clearance procedures shall commence, in association with the existing Toll House building, until a European Protected Species (EPS) Mitigation Licence with respect to Bats 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 Bats, a European Protected Species**

3. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet *Bats and Lighting in the UK*

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

#### **Informative**

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

#### **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.

## 10. BACKGROUND

### Relevant Planning Policies

National Planning Policy Framework

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

### Relevant planning history:

15/00422/FUL Erection of a two storey extension to Toll House including internal and external alterations and installation of a treatment plant GRANT 13th July 2015

15/00423/LBC Internal and external alterations in connection with erection of a two storey extension to Toll House GRANT 14th July 2015

12/01138/AMP Variation of Condition No.2 attached to planning permission To work in accordance with revised layout and elevational treatment for the extension and alterations. REFUSE 21st March 2012

12/01382/VAR Variation of Condition No. 2 (approved plans) attached to planning permission

12/01138/AMP Variation of Condition No.2 attached to planning permission To work in accordance with revised layout and elevational treatment for the extension and alterations. REFUSE 21st March 2012

12/01382/VAR Variation of Condition No. 2 (approved plans) attached to planning permission

11/03541/FUL dated 18/11/11 to work in accordance with revised drawing submitted with this application GRANT 20th August 2012

11/03541/FUL Renewal of extant Planning Permission 08/01380/FUL for proposed two storey extensions and alterations GRANT 18th November 2011

11/05348/FUL Erection of a two storey extension to Toll House including internal and external alterations and installation of a treatment plant GRANT 12th March 2012

11/05350/LBC Works to facilitate the erection of a two storey extension including internal and external alterations and installation of a treatment plant affecting a Grade II Listed Building GRANT 12th March 2012

11/03541/FUL dated 18/11/11 to work in accordance with revised drawing submitted with this application GRANT 20th August 2012

10/04830/FUL Erection of a two storey extension to existing Toll House to provide 5 bedrooms, living accommodation, integral double garage, workshop, balcony and external staircase REFUSE 13th October 2011

10/04943/LBC Internal and external alterations in connection with erection of a two storey dwellinghouse to incorporate existing Toll House to provide 5 bedrooms, living accommodation, integral double garage, workshop, balcony and external staircase affecting a Grade II Listed Building REFUSE 13th October 2011

NS/08/01380/FUL Proposed two storey extensions and alterations to create family size dwelling CONAPP 19th September 2008

NS/08/01382/LBC Proposed works to a listed building to facilitate the erection of two storey extensions and alterations to create family size dwelling CONAPP 1st October 2008

NS/03/00737/LBC To restore the original building and add extension to create family size dwelling CONAPP 10th October 2003

NS/03/00738/FUL Extension and alteration to create family size dwelling CONAPP 10th October 2003

NS/90/00868/FUL Proposed extension to existing dwelling (involving partial demolition)

GRANT

NS/90/00869/FUL Erection of an extension and alteration to existing dwelling GRANT 19th  
September 1990

## 11. ADDITIONAL INFORMATION

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

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

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

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

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

3. Work shall be carried out strictly in accordance with the Preliminary Bat Roost Assessment and Activity Survey conducted by Mark Latham (May 2015) attached as an appendix to this planning permission.

Reason: To ensure the protection of Bats, a European Protected Species

4. Work shall be carried out strictly in accordance with the Update walkover survey conducted by Mark Latham (9th April 2017) attached as an appendix to this planning permission.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

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

5. No development, demolition or site clearance procedures shall commence, in association with the existing Toll House building, until a European Protected Species (EPS) Mitigation Licence with respect to Bats 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 Bats, a European Protected Species

6. No work to the listed building, approved by this permission, shall commence until a photographic level 3 survey, as defined in English Heritage's guidance 'Understanding Historic Buildings: A Guide to Good Recording Practice', of the interior/ exterior of the listed building has been submitted to and approved in writing by the Local Planning Authority.

Reason: This information is required before development commences to record the historic fabric of the building prior to development.

7. Before relevant works commence on the listed building samples of stone for use in repairs and new work shall be made available to and approved in writing by the Local Planning Authority before any works commence.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

8. Details of the roof construction for both the listed building and new dwelling including details of eaves, undercloaks ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

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

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

10. 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.

11. Prior to the commencement of the relevant work on either the listed building or the new dwelling details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

12. The landscaping of the site shall be in accordance with the principles set out in the revised Design and Access Statement. Formal landscaping and planting shall only be provided within the driveway loop as shown on the approved block plan. All other landscaping shall be informal, native species, and retained as such.

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

13. Prior to the first occupation of either the annexe or the new dwelling, (whichever is the sooner), details of the location and form of a collection point for domestic waste shall be submitted to and approved in writing by the Local Planning Authority. The collection point shall be provided in accordance with the approved details and retained for waste collection use for the lifetime of the development.

Reason: To ensure satisfactory household waste collection facilities.

14. Prior to the first occupation of the dwelling/building details for the provision of nesting opportunities for swallows shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of nesting opportunities for wild birds

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

15. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 classes A, B, C, D, E, F, G or H or schedule 2 part 2 class A and C shall be erected, constructed or carried out.

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

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Committee and Date

North Planning Committee

19<sup>th</sup> September 2017

Item

**7**

Public

## Development Management Report

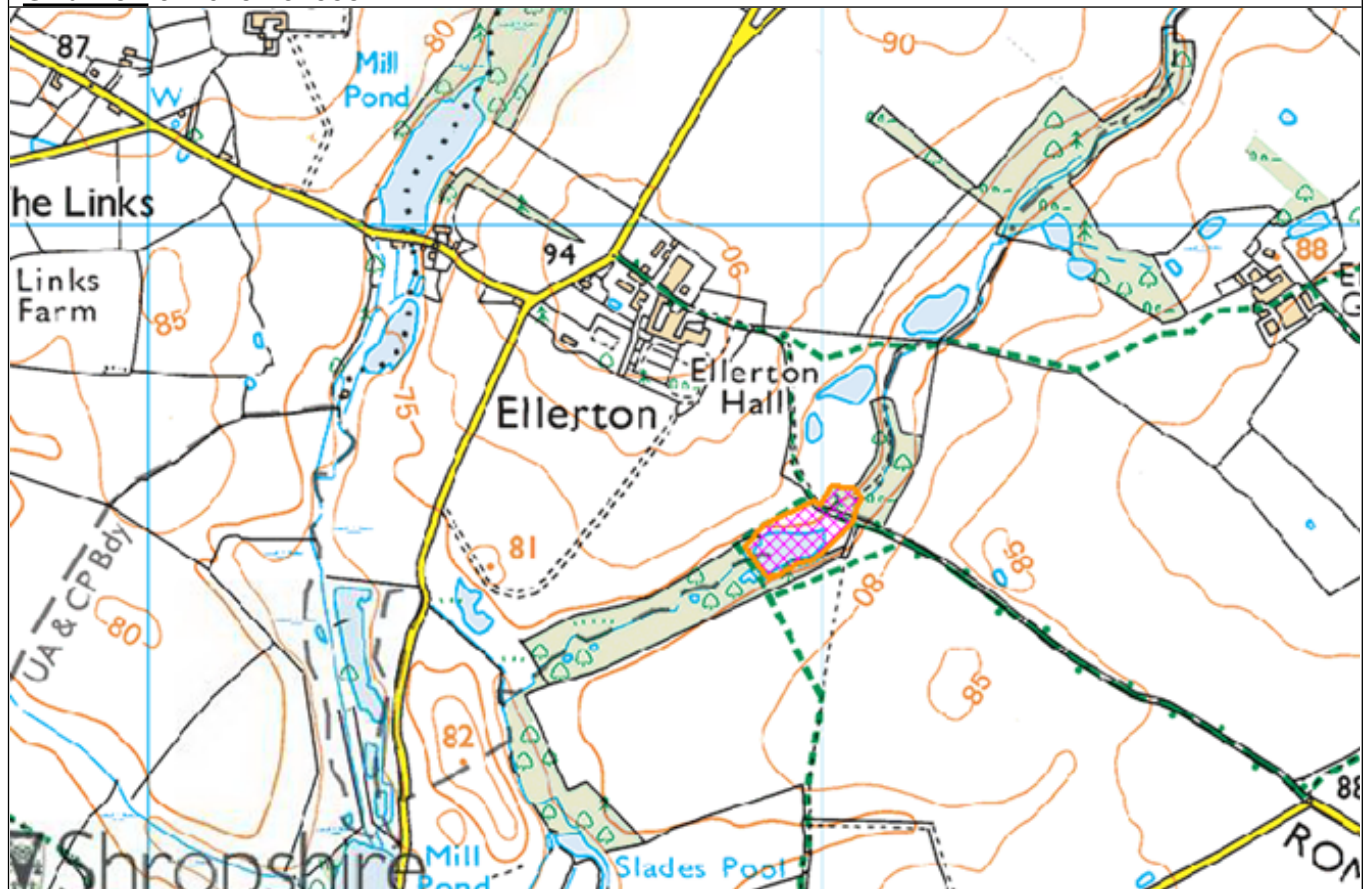
Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 17/01876/LBC	<b><u>Parish:</u></b> Cheswardine
<b><u>Proposal:</u></b> Restoration alterations and extensions to existing dwelling and erection of new dwelling	
<b><u>Site Address:</u></b> Property Known As The Lodge Ellerton Newport Shropshire TF10 8AW	
<b><u>Applicant:</u></b> Mr And Mrs Pariera	
<b><u>Case Officer:</u></b> Karen Townend	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 372028 - 325587



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

- 1.1 This application, in addition to an associated full planning application, seeks consent for restoration and extension of the listed building to create an annexe. The full planning application is also for construction of a new detached dwelling within the setting of the listed building. However, the new dwelling does not require listed building consent. Works are also required to create an access drive, install services and landscaping.
- 1.2 Historic England advises that listed building consent is required for all works of demolition, alteration or extension to a listed building that affect its character as a building of special architectural or historic interest. This report will focus on the works proposed to the listed building and the relevant consultation responses. Full details of all consultation responses and consideration of all other issues is covered in the report for the full planning application.
- 1.3 The listed building will become a one bed annexe. In support of the application the agent/ architect has submitted full plans, visual impression drawings, a design and access statement, heritage statement, protected species survey and updated survey report.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site area is 1.68 hectares, located in an area designated as countryside in the planning policy. It lies on the boundary between Shropshire and Telford and is accessed via a farm track leading between Ellerton House Farm and Ellerton Hall. In the immediate area Ellerton is a small settlement made up of a range of large detached country houses, small cottages and farm building conversions to the east of Hinstock. The application site is within agricultural land and, other than the settlement, is within open fields.
- 2.2 The application site currently consists of an area of grassland, a pool of 0.47 hectares and a small grade II listed building which is octagonal in shape, built of red sandstone and slate. The land slopes down to the pool and also contains a number of trees on the higher ground. The site is not currently enclosed by any means other than field boundaries.
- 2.3 The listed building, now referred to as The Lodge but previously referred to as the Toll House, has an octagonal footprint and is constructed of sandstone block work. It is two storey and has a pitched roof; though this was probably an addition that was added during the late 20<sup>th</sup> century. The building also has octagonal shaped windows at first floor. The existing building is small with a footprint that measures just 34.5 square metres and is 6.3 metres in height to its ridge. The building contains two small rooms; one on each floor and a staircase. The building contains fire places and internal doors which date from the Mid 19<sup>th</sup> century and indicate that that the building did have some type of residential use. The building appears to have been occupied by people employed by the various owners of the hall. The

most recent use of the building was as a holiday let up until the late 1980's when it was used as a fishing lodge.

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

3.1 The Parish Council has expressed a view which is contrary to the Case Officer recommendation. In accordance with part 8 of the Council Scheme of Delegation, and the onward delegation, the local member was consulted to determine whether they consider the comments of the Parish Council justified committee determination of the application. No specific opinion was received and therefore the matter was discussed with the Chair and Vice Chair of the Planning Committee who decided that the application should be considered by the planning committee due to the Parish Council comments and also the previous decision being a committee decision.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **Consultee Comments**

4.1 **Parish Council** – 25.08.17 – The Parish Council objects to this application. The proposals do not justify section 55 status for a new build in open countryside as the design is not of significant architectural merit. The members do not consider that the design meets the “truly outstanding or innovative” requirement of Section 55 of the NPPF and the proposed build would not enhance the immediate surroundings.

23.06.17 – The proposals were studied by the Councillors who noted the application had been made using section 55 (grand design) in order to qualify for exception status. Councillors agreed that the viability of the guest house was not dependent on a new residence. Dimensions of proposed dwelling were checked. Councillors queried whether the proposals justified section 55 status. They did not agree that the design was of significant architectural merit. Councillors do not feel the plans meet the "not truly outstanding or innovative" does not enhance the immediate surroundings - all agreed to object.

4.2 **Conservation** – There have been a number of previous applications which have been approved on this site, which have entailed the restoration and extension of the listed building with a large modern dwelling, immediately abutting the historic building and extending into the hillside to the rear. These have been renewed and the latest is still extant. This application has been subject to pre application advice from Conservation and Planning Officers.

In considering the proposal, due regard to the following local policies and guidance has been taken, when applicable: SC Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), SC SAMDev policies MD2 (Sustainable Design), MD13 (The Historic Environment), and with national policies and guidance: National Planning Policy Framework (NPPF), published March 2012. Section 66(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies.

The proposals for the restoration of the listed building are largely based on the details of the previous consent, and are therefore supported. The small extension now proposed to the rear of the building is considered to be appropriate, reflects the form of the existing building, and minimizes the impact on historic fabric. There are interventions to the historic building proposed internally, including the removal

of a later staircase and partition, and it is recommended that the removal of such features is subject to a condition ensuring their recording. Any approval should also be subject to conditions for all materials, which would need to be agreed prior to commencement.

The proposal to relocate the majority of accommodation from within an attached building as a separate, but linked, dwelling is deemed appropriate as it will enable the retention of the historic building in a relative scale and form which is closest to its original state whilst permitting its restoration. The design rationale for the new building is clear – sustainable building features have been incorporated, its orientation and massing have been planned for it to appear less visible in the views from and towards the listed building, and it has the potential to enhance its setting. It enables the retention and long term future of the listed building, which would be tied to the main site in perpetuity. In summary, it is felt that the scheme now being proposed is appropriate as it has less of an impact upon the fabric of the Listed Building and would complement its unique setting.

It is acknowledged that the proposal does constitute a separate, yet co-owned element to the listed building, but having regard to the previous permissions, it is considered that the proposal is an acceptable form of development which preserves and enhances the character and fabric of the listed building and as such is supported by officers.

The restoration of the listed building should be of paramount importance; any permission should be predicated on the first phase of works being for the restoration of the listed building, which would be carried out with a number of related conditions.

4.3 **Historic England** – On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

#### 4.8 **Public Comments**

4.9 Site notices and a press notice were produced to publicise the application and the site notices were erected by the case officer on the 25<sup>th</sup> May 2017 adjacent to Ellerton Hall on the access track to the site. This track serves as a public right of way and as such the site notices were considered to be appropriate publicity for the proposed development.

### 5.0 **THE MAIN ISSUES**

- Principle of development, relevant policies and history of site
- Siting, scale and design of alterations and extension to listed building

### 6.0 **OFFICER APPRAISAL**

#### 6.1 **Principle of development, relevant policies and history of site**

6.1.1 Planning permission has previously been granted four times for extending the existing building to create a single dwelling. The first approval was designed as a number of octagonal sections around the existing building. The later approvals were for a large two storey section linked by a single storey connecting extension to the existing building. The most recent consent is from 2015 and as such is still an



extant consent which could be developed. The previous consents are a material planning consideration in the determination of the current planning application.

- 6.1.2 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.3 The development plan is the Shropshire Core Strategy and the Shropshire Site Allocations and Management of Development Plan (SAMDev). Specific policies relevant to this application are CS5, CS6 & CS17 of the Shropshire Core Strategy and MD2, MD7a and MD13.
- 6.1.4 CS5 deals with development in the countryside and, in compliance with the NPPF, seeks to strictly control development to ensure that development maintains and enhances countryside vitality and character. The policy lists developments which may be acceptable in the countryside, including conversion of existing heritage assets. CS5 does not support new open market houses in the countryside and this view has been supported by a number of recent appeal decisions. CS6 is a general policy requiring all development to be, amongst other things, sustainable and of high quality.
- 6.1.5 CS17 requires development to protect and enhance the environmental and heritage assets of the County by ensuring that development is of a high quality and does not adversely affect the historic environment or ecological values and functions.
- 6.1.6 MD2 expands on CS6 in seeking to ensure development is sustainably designed by ensuring that development responds to local design aspirations, local distinctiveness and character and also expands on CS17 in requiring development to protect, conserve and enhance historic context and incorporate natural assets. Policy MD7a reiterates CS5 in strictly controlling housing outside of the identified settlements except where needs are proven for affordable housing or conversion of heritage assets. MD13 provides greater detail for consideration of the historic environment and detailed policy on consideration of development which is likely to have an impact on a heritage asset.
- 6.1.7 With specific regard to the works to the listed building, separate to the consideration of the new dwelling proposals, the restoration of the listed building, the Lodge, is not reliant on the finances gained from constructing the new house and as such is not strictly compliant with para 55 of the NPPF. However, local policies support the conversion of listed buildings and there is no policy preventing extension and alteration of the building. The key consideration is whether the alterations and extensions are appropriate for the building and the impact the works have on the special character. Within the revised D&A the agent has

acknowledged this and suggested that the new dwelling is facilitating the works to the listed building.

6.1.8 The current view of the applicant and officers concerned, including the Council Conservation Officer, is that the previous proposals were all additions to the listed building which, although were acceptable, would also have significantly altered the character of the listed building. This application is for a smaller addition to the listed building to enable its use as an annexe. The previous consent, which remains a valid consent and could be constructed, is also a material consideration which needs to be given weight in the determination of the current application.

## 6.2 **Siting, scale and design of alterations and extension to listed building**

6.2.1 As noted above the existing building on site is a grade II listed building which is octagonal in shape, built of red sandstone and slate. It is named in the list entry as “The Round House” and described as a two storey lodge, early C19, octagonal in plan, sandstone with slate roof resting on posts at each corner has been listed since February 1987. The listing description suggests that the first floor may be a later addition due to the more regular masonry and dressings and the roof is also a later alteration or addition. The building is recorded as the former south-east entrance lodge to Ellerton Hall (not listed).

6.2.2 The work proposed to the listed building include the restoration of the sandstone walls to eaves height, the addition of a structural ring to support the walls, the construction of a faceted roof rising to a point, finished in slate. The addition, which will provide kitchen and bathroom, is to be of a similar plan form and roof shape but of a lower scale and also rendered so as to read as a subservient addition. A small glazed link will attach the extension to the original building.

6.2.3 Taking into account the previous approvals on the site which all proposed significantly larger additions to the listed building the current proposal is considered to be a substantial improvement on the previous schemes with regard to the direct impact on the listed building. The impact of the proposed detached dwelling is considered above. Overall the additions and alterations to the grade II building are considered to be acceptable, sympathetic and will not, on their own, result in loss of significance of the listed building.

6.2.4 The alterations now proposed are considered to minimise the impact on the historic fabric through utilising existing openings, the internal alterations are acceptable in principle though a condition is recommended so that features are recorded and damaged fabric is replaced with appropriate alternatives that are as close to the original as possible.

6.2.5 The extended lodge is provided with self contained facilities. This is not normally accepted for annexe accommodation, however the site constraints mean that the annexe will be separate from the main dwelling and could not function with shared facilities. The new dwelling is proposed on the area of land which is most open so as to reduce the need to remove existing landscaping, it is also on a part of the site where the existing ground slope can be utilised. However, the services for the annexe will be combined with the services for the main house and the landscaping and access will link the two parts of the development. A condition is proposed to ensure that the annexe is only occupied as an annexe and not at anytime sold or

sublet.

6.2.6 The applicants have also advised that their intention is to undertake the works to the lodge first and occupy the lodge during the construction of the new dwelling. This can also be controlled by condition and will ensure that the works proposed to the listed building are carried out.

6.2.7 Overall the works proposed to the listed building are considered to comply with the principles set out in the NPPF and policies CS17 of the Core Strategy and MD2 and MD13 of the SAMDev. Furthermore, the development as proposed is considered to ensure the preservation of the listed building without detriment to its setting and features of architectural and historic interest in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **7.0 CONCLUSION**

7.1 The proposed works to the listed building are considered to be acceptable and appropriate for the building and will not cause significant harm to the special importance of the building. The proposed development is considered to comply with the principles of policies CS6 and CS17 of the Shropshire Core Strategy, policies MD2, MD7a and MD13 of the Shropshire Site Allocations and Management of Development and the National Planning Policy Framework. The scheme is also considered to ensure the preservation of the listed building without detriment to its setting and features of architectural and historic interest in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

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

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

### **8.2 Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be

balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

### 8.3 **Equalities**

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

### 9.0 **Financial Implications**

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

## 10. **BACKGROUND**

### Relevant Planning Policies

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD13 - Historic Environment

### Relevant planning history:

15/00422/FUL Erection of a two storey extension to Toll House including internal and external alterations and installation of a treatment plant GRANT 13th July 2015

15/00423/LBC Internal and external alterations in connection with erection of a two storey extension to Toll House GRANT 14th July 2015

12/01138/AMP Variation of Condition No.2 attached to planning permission To work in accordance with revised layout and elevational treatment for the extension and alterations. REFUSE 21st March 2012

12/01382/VAR Variation of Condition No. 2 (approved plans) attached to planning permission

12/01138/AMP Variation of Condition No.2 attached to planning permission To work in accordance with revised layout and elevational treatment for the extension and alterations. REFUSE 21st March 2012

12/01382/VAR Variation of Condition No. 2 (approved plans) attached to planning permission 11/03541/FUL dated 18/11/11 to work in accordance with revised drawing submitted with this application GRANT 20th August 2012

11/03541/FUL Renewal of extant Planning Permission 08/01380/FUL for proposed two storey extensions and alterations GRANT 18th November 2011

11/05348/FUL Erection of a two storey extension to Toll House including internal and external alterations and installation of a treatment plant GRANT 12th March 2012

11/05350/LBC Works to facilitate the erection of a two storey extension including internal and external alterations and installation of a treatment plant affecting a Grade II Listed Building GRANT 12th March 2012

11/03541/FUL dated 18/11/11 to work in accordance with revised drawing submitted with this application GRANT 20th August 2012

10/04830/FUL Erection of a two storey extension to existing Toll House to provide 5 bedrooms, living accommodation, integral double garage, workshop, balcony and external staircase REFUSE 13th October 2011

10/04943/LBC Internal and external alterations in connection with erection of a two storey dwellinghouse to incorporate existing Toll House to provide 5 bedrooms, living accommodation, integral double garage, workshop, balcony and external staircase affecting a Grade II Listed Building REFUSE 13th October 2011

NS/08/01380/FUL Proposed two storey extensions and alterations to create family size dwelling CONAPP 19th September 2008

NS/08/01382/LBC Proposed works to a listed building to facilitate the erection of two storey extensions and alterations to create family size dwelling CONAPP 1st October 2008

NS/03/00737/LBC To restore the original building and add extension to create family size dwelling CONAPP 10th October 2003

NS/03/00738/FUL Extension and alteration to create family size dwelling CONAPP 10th October 2003

NS/90/00868/FUL Proposed extension to existing dwelling (involving partial demolition) GRANT

NS/90/00869/FUL Erection of an extension and alteration to existing dwelling GRANT 19th September 1990

## 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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

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

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

3. Work shall be carried out strictly in accordance with the Preliminary Bat Roost Assessment and Activity Survey conducted by Mark Latham (May 2015) attached as an appendix to this planning permission.

Reason: To ensure the protection of Bats, a European Protected Species

4. Work shall be carried out strictly in accordance with the Update walkover survey conducted by Mark Latham (9th April 2017) attached as an appendix to this planning permission.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

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

5. No development, demolition or site clearance procedures shall commence, in association with the existing Toll House building, until a European Protected Species (EPS) Mitigation Licence with respect to Bats 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 Bats, a European Protected Species

6. No work to the listed building, approved by this permission, shall commence until a photographic level 3 survey, as defined in English Heritage's guidance 'Understanding Historic Buildings: A Guide to Good Recording Practice', of the interior/ exterior of the listed building has been submitted to and approved in writing by the Local Planning Authority.

Reason: This information is required before development commences to record the historic fabric of the building prior to development.

7. Before relevant works commence on the listed building samples of stone for use in repairs and new work shall be made available to and approved in writing by the Local Planning Authority before any works commence.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

8. Details of the roof construction for both the listed building and new dwelling including details of eaves, undercloaks ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

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

9. 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.

10. Prior to the commencement of the relevant work on either the listed building or the new dwelling details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

11. The landscaping of the site shall be in accordance with the principles set out in the revised Design and Access Statement. Formal landscaping and planting shall only be provided within the driveway loop as shown on the approved block plan. All other landscaping shall be informal, native species, and retained as such.

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

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

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 classes A, B, C, D, E, F, G or H or schedule 2 part 2 class A and C shall be erected, constructed or carried out.

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

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<u>Committee and Date</u>
North Planning Committee
19 <sup>th</sup> September 2017

<u>Item</u>
<b>8</b>
Public

## Development Management Report

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 19<sup>TH</sup> SEPTEMBER 2017

#### Appeals determined

<b>LPA reference</b>	16/02617/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr David Evans
<b>Proposal</b>	Outline application for the erection of 2 no. detached dwellings following demolition of existing derelict industrial building (all matters reserved)
<b>Location</b>	Lower Craignant Farm, Selattyn, Oswestry, SY10 7NP
<b>Date of appeal</b>	05 June 2017
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	29 August 2017
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	16/05095/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs Barbara Costello
<b>Proposal</b>	Erection of replacement dwelling following demolition of existing bungalow, detached double garage, installation of septic tank
<b>Location</b>	The Bungalow, Wood Lane, Hinstock, TF9 2TA
<b>Date of appeal</b>	05 June 2017
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	29 August 2017
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	16/01889/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Darren Cousins
<b>Proposal</b>	Erection of triple garage block with apartment over
<b>Location</b>	Land To Rear Of Waters Nook, Walford Barns, Walford, Shrewsbury
<b>Date of appeal</b>	05 June 2017
<b>Appeal method</b>	Writtten reps
<b>Date site visit</b>	31 July 2017
<b>Date of appeal decision</b>	29 August 2017
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>



---

# Appeal Decision

Site visit made on 31 July 2017

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 29<sup>th</sup> August 2017**

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**Appeal Ref: APP/L3245/W/17/3173976**

**Lower Craignant Farm, Selattyn, Oswestry SY10 7NP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr David Evans against the decision of Shropshire Council.
  - The application Ref 16/02617/OUT, dated 13 June 2016, was refused by notice dated 19 October 2016.
  - The development proposed is an outline application for the erection of 2 no. detached dwellings following demolition of existing derelict industrial building (all matters reserved).
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was submitted in outline, with all matters reserved for future consideration, as confirmed by the Council. I have determined the appeal on this basis. Plans were submitted with the application indicating the site layout of the proposal. However, I have considered these on the basis that they are indicative only and do not form part of the application.
3. I have used the description of development as set out in the Council's Decision Notice. This is more concise than that contained within the application form.

## Main Issues

4. The main issues are whether the proposal accords with the Council's housing strategy, with particular regard to its location, and its effect on biodiversity.

## Reasons

### *Housing Strategy*

5. Policy CS4 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets out how new housing will be delivered in the rural areas by focusing it in identified Community Hubs and Community Clusters. This is supported by Policy S8.2 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. The Council confirms that the appeal site is not located within any identified Community Hub or Cluster. The nearest Community Hub or Cluster is Sellatyn, Upper/Middle/Lower Hegoed and Pant Glas.
6. Policy S14.2 (X) of the SAMDev identifies a need for a further 5 dwellings within Sellattyn to be delivered over the plan period. At least 11 dwellings have

already been granted planning permission<sup>1</sup> within Sellatyn. The appellant contends that at least one of these sites is outside the settlement boundary of Sellatyn. However, the details of the location of these schemes is not before me, therefore I cannot draw any direct comparison with the appeal proposal. Furthermore, it is not clear what the status of the development plan was at the time the permissions were granted or whether the Council could demonstrate a demonstrable five year supply of housing land. Therefore, I can only attribute limited weight to this matter. In any event, the appeal site is a considerable distance from Sellatyn.

7. The appellant argues that the site falls within the hamlet of Craignant, which comprises a collection of a very small number of sporadic properties, including a chapel. However, there is no evidence before me that Craignant forms part of a Community Hub or Cluster. The site is approximately 1.6km from the settlement of Sellatyn. Accordingly, for the purposes of the development plan, the site is considered to be located within the open countryside.
8. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5.
9. In support of Policy CS5, Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters.
10. The Council confirm that they have a five year supply of deliverable housing land. The appellant does not dispute this, although he does argue that there is a shortfall in housing provision within the area. However, there is no evidence that the Council's housing target is not going to be met. Accordingly, the policies within the development plan that are relevant to housing supply are considered to be up-to-date and therefore paragraph 49 of the Framework is not engaged.
11. The appellant's main argument is that the site is a brownfield (previously developed) site as it was previously used for industrial purposes for over 50 years. There is an industrial building on the site and an associated hardstanding area, which are no longer in use. The dwellings would replace the existing building and hardstanding.
12. I note the appellant's reference to the recently published Department for Communities and Local Government's White Paper 'Fixing our broken housing market', which supports the re-development of previously developed sites and seeks to amend the National Planning Policy Framework (the Framework) to indicate that great weight should be attached to the value of using suitable brownfield land within settlements for homes. However, this is in no way suggesting a *carte blanche* to redevelop any previously developed land. It relates to 'suitable' brownfield land 'within settlements'. I do not consider that the appeal site is located within a settlement, for the purposes of planning, or near to any shops, services, facilities or employment opportunities.

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<sup>1</sup> LPA Ref 15/04319/REM, 15/03363/OUT and 14/01668/OUT

Consequently, it would result in a heavy reliance on the use of private transport. Accordingly, I do not consider that it is a suitable brownfield site within a settlement, as envisaged by the White Paper.

13. Whilst the Council admit that they do not have a brownfield site register, they do have a five year supply of deliverable housing land. Furthermore, there are likely to be more suitable brownfield sites than the proposed site within settlements. Accordingly, I do not consider that the lack of a brownfield register undermines the Council's housing strategy.
14. I find therefore that the proposal fails to accord with the Council's housing strategy as embodied in Policies CS4 and CS5 of the CS and Policies MD7a, S8.2 and S14.2(X) of the SAMDev.

### *Biodiversity*

15. Paragraph 99 of Circular 06/2005 'Biodiversity and Geological Conservation- statutory obligations and their impact within the planning system' ODPM states that developers should not be required to carry out surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.
16. The Council contend that the proposal has the potential to affect priority habitats, badgers, reptiles, bats and nesting birds. The site is in proximity of semi-improved grassland, bracken, standing trees, scrub, broadleaved woodland, open water, building and debris. Accordingly, there is a reasonable likelihood of these species being present and affected by the development and, as such, I consider that an Ecological Assessment is required. No such assessment has been submitted.
17. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances<sup>2</sup>. There is no evidence before me to suggest that there are any such exceptional circumstances.
18. I find therefore that in the absence of an ecological assessment of the appeal site it is not possible to ascertain the effect the dwelling would have on protected species. Therefore, the proposal would fail to comply with Policy CS17 of the CS, which, amongst other matters, seeks to protect the ecological value of the area. Similarly, it would fail to accord with paragraph 109 of the Framework, which states that development should conserve and enhance biodiversity.

### **Other Matters**

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 150 of the Framework echoes this, stating that local plans are the key to delivering sustainable development that reflects the vision and

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<sup>2</sup> Paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

aspirations of local communities and planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. The statutory primacy of the development plan is reinforced in paragraphs 196 and 210 of the Framework and its first core principle is that planning should... "be genuinely plan-led."

20. The dwellings would be occupied by the appellant's daughters. However, there is no indication that they would be secured as affordable dwellings. Therefore, whilst I appreciate the appellant's wish for his family to remain living in the area, I can only attribute this matter limited weight in favour of the proposal.
21. The proposal would provide two family sized homes and therefore it is likely that any children occupying them would help support local schools and services.
22. I acknowledge that the Parish Council support the proposal and consider that it would improve the visual amenities of the area. Whilst the proposal is in outline form, it is possible that it would improve the visual amenities of the area through appropriate design and landscaping, which weighs in favour of the proposal.
23. Whilst these matters are material considerations that weigh in favour of the proposal, I do not consider that individually or cumulatively they outweigh the harm identified by reason of undermining the Council's housing strategy as set out in the Council's development plan.

### **Conclusion**

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

*Alexander Walker*

INSPECTOR



## Appeal Decision

Site visit made on 31 July 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 25<sup>th</sup> August 2017

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**Appeal Ref: APP/L3245/W/17/3174239**

**The Bungalow, Wood Lane, Hinstock, Market Drayton TF9 2TA**

- 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 Mrs Barbara Costello against the decision of Shropshire Council.
  - The application Ref 16/05095/FUL, dated 5 November 2016, was refused by notice dated 2 March 2017.
  - The development proposed is a replacement dwelling, including detached garage, new drainage system and demolition of existing bungalow.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. During the Council's consideration of the application, amended plans were submitted. The appellant confirms that the decision was made based on these plans and the Council has not disputed this. Accordingly, I have determined the appeal based on these amended plans.

### Main Issues

3. The main issues in this appeal are the effect of the development on the character and appearance of the area and the effect of the development on the provision of the type and mix of housing in the locality.

### Reasons

#### *Character and appearance*

4. The existing dwelling is a single-storey, detached bungalow located within the open countryside. The site lies adjacent to a number of agricultural type buildings to the north. To the south and west are open fields, with the nearest neighbour being a short distance to the south. Further to the south is the village of Hinstock, which comprises a variety of dwellings, including several bungalows within proximity of the site. To the east is Wood Lane, which has sparsely scattered dwellings along this stretch of it, including a range of single-storey and two-storey dwellings.
5. The existing dwelling is relatively small and is of a simple design. The appellant confirms that it has a floor area of approximately 75 sqm. The proposed replacement dwelling would sit on roughly the same foot print as the existing dwelling, albeit set slightly further back from the road. It would have a floor area of approximately 154 sqm and would be two-storey in height.

6. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan 2015 states that replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case.
7. The Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD) 2012 also provides guidance with regard to replacement dwellings in the open countryside, emphasising the need for replacement dwellings to respect the local character of the area, taking account of bulk, scale, height and external appearance of the resultant dwelling and be sympathetic to the size, mass, character and appearance of the original building.
8. Following the submission of the appeal, the Council confirm that prior approval has been granted for extensions to the dwelling<sup>1</sup>. The evidence submitted by the appellant, indicates that the lawful scheme would increase the dwelling to 187 sqm. However, this appears to be in reference to a scheme that differs to that granted prior approval. There is no confirmation as to what the floor space of the lawful scheme would be. The appellant submits that if the existing dwelling is extended under permitted development rights it would result in a significant increase in the overall floor area of the dwelling. I accept this position. The lawful scheme is a fall-back position which is a significant material consideration in my determination of the appeal, a view which Inspectors have shared in previous appeals referred to me by the appellant<sup>2</sup>.
9. The lawful scheme would comprise two extensions on either side of the existing dwelling. It is not clear from the evidence before me what the elevational details of the scheme comprise. The details submitted by the appellant indicate a different scheme to that granted prior approval by the Council. Taking the Council's plans, as they are the most recently submitted, the extensions would be approximately the same width and depth as each other and would undoubtedly be single-storey.
10. Notwithstanding the lack of elevational details regarding the lawful scheme, I do not consider that the replacement of the existing modest single-storey dwelling, even with the lawful scheme implemented, with a two-storey dwelling would have a positive effect on the character and appearance of the area. The low profile of the existing dwelling is partly screened from the adjacent road by the hedge and sits comfortably within the context of the surrounding built-form including the neighbouring bungalow and outbuildings.
11. The proposed two-storey dwelling would rise substantially above the hedge and would be dominant in views when travelling along Wood Lane. The considerable increase in height would significantly diminish the openness of the site and the general area. Whilst the lawful scheme would increase the footprint of the existing building I do not consider that it would be more visually dominant or harmful than the proposed two-storey dwelling. Moreover, whilst the resultant dwelling may appear less coherent than the proposed dwelling I do not consider that this outweighs the harm the proposed dwelling would have on the openness of the area.
12. Moreover, the proposal also appears to increase the size of the private amenity space associated with the existing dwelling. I noted during my site visit that there was no physical boundary demarcating the extent of the western and southern boundaries of the site. The lawful scheme and the planning permission that has

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<sup>1</sup> LPA Ref 17/01872/HHE

<sup>2</sup> Appeal Refs APP/L3245/W/15/3003087 and APP/V3120/A/12/2188869



also recently been granted for a replacement 3 bedroom bungalow<sup>3</sup>, indicate a much smaller area than that proposed. The appellant confirms that this increase is to accommodate the septic tank and drainage fields. However, the increase also includes the area of land to the south of the dwelling and appears to extend further west in addition to the drainage requirements. Whilst the proposed dwelling itself would not appear to encroach into the surrounding countryside, the detached garage and domestic paraphernalia such as garden sheds, washing lines, garden furniture, etc. likely would and therefore erode the openness of the area. Consequently, this would accentuate the increase in the size of the overall development and contribute to the overall harm it would have on the openness of the area.

13. I have had regard to the Inspectors' conclusions in the appeal decisions referred to me by the appellant. Whilst I agree that the fall back is a material consideration, in this instance, I find that any harm the lawful scheme would have on the character and appearance of the area would be less than the harm the proposed dwelling would have. Furthermore, the details before me regarding the appeal schemes referred to me are limited and therefore I cannot draw any direct comparison in respect of the design of the proposal.

14. I find therefore that the dwelling would significantly harm the character and appearance of the area. As such, it would fail to accord with Policy MD7a of the SAMDev and the SPD. Furthermore, it would fail to accord with Policy MD2 of the SAMDev and Policy CS6 of the Shropshire Core Strategy (the CS) 2011, which seek to ensure that development respects the character and appearance of the area.

#### *Type and mix of housing*

15. The proposed dwelling would have less floor space than the existing dwelling if the lawful scheme was implemented. Consequently, I find that the proposal would not have an adverse effect on the type and mix of housing in the area. It would result in the loss of a small dwelling, which itself makes a valuable contribution to the housing stock in the area. However, it is likely that it would be lost in any event through the implementation of either the lawful scheme or the permitted replacement dwelling. There is no evidence to suggest that the existing dwelling falls within the definition of an affordable dwelling. Accordingly, I find that there would not be any conflict with Policies MD2 and MD7a of the SAMDev, Policy CS6 of the CS or the SPD in this respect.

#### **Other Matters**

16. I have had regard to the energy efficiency of the existing dwelling and accept that the proposal would likely be more efficient. However, I do not find that this outweighs the harm I have identified above.

#### **Conclusion**

17. Whilst the proposal would not adversely effect on the type and mix of housing in the area, it would significantly harm the character and appearance of the area.
18. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker* INSPECTOR

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<sup>3</sup> LPA Ref 17/01919/FUL

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## Appeal Decision

Site visit made on 31 July 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 29<sup>th</sup> August 2017

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**Appeal Ref: APP/L3245/W/16/3158382**

**Walford Barns, Baschurch, Shrewsbury, Shropshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Darren Cousins against the decision of Shropshire Council.
  - The application Ref 16/01889/FUL, dated 25 April 2016, was refused by notice dated 4 July 2016.
  - The development proposed is the erection of a triple garage block with apartment over.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - Whether the development would accord with the Council's housing strategy, with particular regard to its location;
  - The effect of the development on the character and appearance of the area, including the setting of neighbouring listed buildings; and
  - The effect of the development on highway safety.

### Reasons

#### *Housing Strategy*

3. The Council confirms that the appeal site is not located within any Community Hub or Cluster as identified in Policy CS4 of the Shropshire Council Adopted Core Strategy (CS) 2011. The appellant does not dispute this. Accordingly, for the purposes of the development plan, the site is considered to be located within the open countryside.
4. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to, including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5.
5. In support of Policy CS5, Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 goes on to

state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. As the proposal is for an open market dwelling in the open countryside, I find that it would fail to accord with Policies CS5 and MD7a.

6. The Council confirm that they have a five year supply of deliverable housing land. The appellant does not dispute this, although he does contend that there is a shortfall in housing provision within the area. However, there is no evidence that the Council's housing target is not going to be met. Accordingly, the policies within the development plan that are relevant to housing supply are considered to be up-to-date and therefore paragraph 49 of the Framework is not engaged.
7. I note that the appellant argues that the site is within the curtilage of the recently developed barns. However, I have not been presented with any evidence that local or national policy supports the development of such sites.
8. I find therefore that the proposal fails to accord with the Council's housing strategy as embodied in Policy CS5 of the CS and Policy MD7a of the SAMDev.

#### *Character and Appearance*

9. The appeal site is located to the rear of two recently converted barns<sup>1</sup> on the edge of Walford. The site forms part of the domestic curtilage of Water's Nook, one of the dwellings that forms part of the conversion scheme, and is currently partly hardstanding for parking and partly overgrown. The converted barns are a grade II listed building and date back to circa mid-late C17th, with extensions and remodelling having taken place in the C18th and C19th. The building is of brick construction with exposed timber framing and top panel weather boarding with a slate roof. The building is roughly L-shaped with a central building in the middle dividing it into two separate courtyard areas. Overall, it is a particularly attractive traditional agricultural building.
10. Paragraph 128 of the National Planning Policy Framework (the Framework) states that an applicant should describe the significance of any heritage assets affected, including and contribution made by their setting. There is no evidence that such information was submitted with the application and no such evidence has been submitted with the appeal. Nevertheless, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving the listed building or its setting. Therefore, in undertaking this duty I have based my assessment on the limited evidence presented to me and the observations I made during my site visit.
11. The dwellings contained within the conversion scheme face into the courtyard areas. Their private amenity space is to the rear, demarcated by close boarded timber fencing. The proposal would be located within this rear area. The building would have no frontage within the courtyard area. Moreover, the existing buildings have clear, uniform building lines. The proposed building would project significantly beyond the elevation of the properties contained within the western wing of the conversion scheme. As a result, the

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<sup>1</sup> LPA Ref 12/03441/FUL

building would fail to respect the important historic pattern of development of the barns which make a positive contribution to the character and appearance of the area.

12. The proposal would be a small detached building with a modest private amenity space to the rear. Many of the other properties within the conversion scheme are of a modest size with equally small rear gardens. However, they form part of a larger building which has a range of property and garden sizes and therefore do not appear as overdeveloped. Whilst the proposed building would provide garage space for dwellings contained within the conversion scheme, given its incoherent relationship with the existing building, its overall size in relation to its plot size would appear cramped and represent overdevelopment.
13. In addition, the introduction of a detached building in this location would erode the spaciousness of the area surrounding the barns. This spaciousness plays an important role in framing the building. Therefore, its erosion would significantly detract from the setting of the listed building.
14. Paragraph 134 of the Framework confirms that where a development proposal would 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, including securing its optimal viable use. Whilst the harm to the significance of the listed building would be less than substantial, I do not find that the contribution the proposal would have to the local housing supply or the provision of garage space to neighbouring dwellings would outweigh this harm.
15. I find therefore that the proposal would significantly harm the character and appearance of the area and the setting of the neighbouring listed building. As such, it would be contrary to Policies CS6 and CS17 of the CS and Policy MD2 of the SAMDev, which, amongst other matters, seek to protect, conserve and enhance the natural, built and historic environment. In addition, it would fail to comply with the advice contained within the Shropshire Council Type and Affordability of Housing Supplementary Planning Document (SPD) 2012, which seeks to protect local historic or rural character. Furthermore, it would fail to accord with the design objectives of the Framework.

#### *Highway Safety*

16. I noted during my site visit that the access to the overall conversion scheme has not been carried out in accordance with the approved scheme. The appeal site lies on an area of land identified in the approved scheme for the barn conversion as overspill parking comprising 12 spaces.
17. If the proposed scheme was allowed and implemented it would prevent the completion of the approved access and parking serving the barns. There is no evidence before me to indicate that sufficient parking provision would be provided for the barns or that it would not represent a severe risk to highway safety.
18. On this basis, I find that the proposal would represent an unacceptable risk to highway safety, contrary to paragraph 32 of the Framework.

**Conclusion**

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

*Alexander Walker*

INSPECTOR