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

Date: Monday, 18 September 2017

Committee: South Planning Committee

Date: Tuesday, 26 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

David Evans (Chairman) David Turner (Vice Chairman) Andy Boddington Gwilym Butler Simon Harris Nigel Hartin Richard Huffer William Parr Madge Shineton Robert Tindall Tina Woodward

Substitute Members of the Committee

Jonny Keeley Heather Kidd Christian Lea Elliott Lynch Cecilia Motley Vivienne Parry Kevin Turley Leslie Winwood Michael Wood

Your Committee Officer is:

Linda JeavonsCommittee OfficerTel:01743 257716Email:linda.jeavons@shropshire.gov.uk

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AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the minutes of the South Planning Committee meeting held on 29 August 2017.

Contact Linda Jeavons (01743) 257716.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 pm on Thursday, 21 September 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 Brian Mear (Bricks) Ltd, The Brick Library, Bromfield Road, Ludlow, Shropshire, SY8 1DN (16/04716/VAR) (Pages 7 - 24)

Variation of Condition No.2 (approved plans) attached to permission 14/00563/FUL dated 03/08/2015 to allow for underground fuel storage tanks to be approved by Environment Agency in place of semi-submerged tanks with additional parking at ground level.

6 Land West Of Water Works, Hopton Wafers, Shropshire (17/00766/FUL) (Pages 25 - 34)

Modification to previously approved (13/05064/FUL) to allow for the erection of one dwelling with single storey rear extension and roof terrace and re-positioning of approved garage (plot 3 only).

7 Proposed Affordable Dwelling North Of Spring Vale Farm, Occupation Lane, Chelmarsh, Bridgnorth, Shropshire (17/02441/FUL) (Pages 35 - 48)

Erection of an affordable dwelling, with detached double garage, alterations to existing vehicular access and installation of a septic tank.

8 Schedule of Appeals and Appeal Decisions (Pages 49 - 68)

9 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 24 October 2017 in the Shrewsbury Room, Shirehall.

Agenda Item 2



Committee and Date

South Planning Committee

26 September 2017

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 29 August 2017 2.00 - 4.29 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

Present

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Simon Harris, Nigel Hartin, Richard Huffer, William Parr, Madge Shineton, Tina Woodward, Cecilia Motley (Substitute) (substitute for Robert Tindall) and Michael Wood (Substitute) (substitute for Gwilym Butler)

34 Apologies for Absence

Apologies for absence were received from Councillors Gwilym Butler (Substitute: Michael Wood) and Robert Tindall (Substitute: Cecilia Motley).

35 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 1 August 2017 be approved as a correct record and signed by the Chairman.

36 **Public Question Time**

There were no public questions or petitions received.

37 Disclosable Pecuniary Interests

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

With reference to planning application 17/01033/EIA, Councillor David Evans declared that he was in the poultry business but he and his company had no connection to the applicant or this application. He supplied pullets for egg laying to the domestic poultry producer and birds for meat production. He did not supply large broiler units; these producers had contracts with the large producer and packers.

38 Footbridge Farm, Tasley, Bridgnorth, Shropshire, WV16 5LZ (17/01033/EIA)

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had undertaken a site visit and had viewed the site and had assessed the impact of the proposal on the surrounding area. He drew Members' attention to the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting and appraised Members of 30 further objections that had been received from local residents following publication of the Schedule of Additional Letters.

Mr L Berryman, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor David Cooper, representing Bridgnorth Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor David Ball, representing Tasley Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Elliott Lynch, and also representing Councillor Les Winwood, both being local Ward Councillors, made a statement. He then left the table, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- This proposal had caused great concern to local residents as evidenced by the large turnout at both this meeting and site visit;
- The size and scale of the development was huge. Bridgnorth was a growing community and under SAMDev it would continue to grow and families could be located closer to the site in the future;
- He raised concerns regarding odour and dust and reiterated the need to protect the future health of the community. Farming dust was spread by wind and dust was linked to respiratory illness; and
- He drew attention to a statement from a six-year old resident who was objecting to the proposal and urging refusal.

With the permission of the Chairman and due to the fact that an additional Parish/Town Council had been allowed to speak against the proposal, the agent was permitted to speak for up to six minutes. Mr I Pick, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from Members.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. In response to questions and comments from Members, the Public Protection Officer provided clarification regarding the role of the Environment Agency and Shropshire Council's Public Protection team and explained the process and timescale for responding to any complaints. The Technical Specialist Officer drew Members' attention to the conditions which would be attached to any permission relating to ecology and lighting and explained that the installation of solar panels in the future, although not part of this proposal, could fall under the category of permitted development.

RESOLVED:

That, as per the Officer's recommendation, delegated authority be granted to the Planning Services Manager to grant planning permission, subject to:

• The conditions as set out in Appendix 1 to the report, subject to conditions being amended to ensure that any external surfaces of the development shall be BS18B29, and any other amendments deemed necessary.

39 Proposed Camping Site At Jenny Knoll, Woodside, Clun, Shropshire 17/01380/FUL

The Planning Associate, introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He drew Members' attention to the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting. He further provided a verbal update regarding objections received following publication of the Schedule of Additional Letters and which related to road safety, insufficient passing places along the lane, sewerage, water management, environment matters, lack of supervision on the site, noise and a request for no dogs on site.

Members had undertaken a site visit and had viewed the site and had assessed the impact of a proposal on the surrounding area.

Ms H Vaughan, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor J Limond, representing Clun Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Nigel Hartin, as local Ward Councillor, made a statement. He then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Although the applicants had stated that the yurts would be removed from the site at the end of the season there would however be some permanent ground works;
- The proposal would detract from the Area of Outstanding Natural Beauty (AONB);
- Highways had raised no objections; however the roads were very narrow, passing places were limited and this proposal would significantly increase traffic; and

• He urged refusal – the proposal would be in the wrong place.

Mr N Williams, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from Members.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. Members expressed concern regarding the location and remoteness of the site; road safety; topography; management of the site; access; and groundworks. In response to comments and questions from Members, the Planning Associate reiterated that Shropshire Council's Highways Officers had raised no objections, proposed additional passing points would make it easier for those who use alternative modes of transport, and a suite of proposed conditions would mean that road improvements including passing places, parking, lighting, site management, ground works and drainage would all have to be agreed prior to any development taking place.

RESOLVED:

That, contrary to the Officer's recommendation, planning permission be refused for the following reasons:

 It is acknowledged that the proposed development could contribute economically to the rural economy by assisting to sustain an existing rural enterprise and would provide opportunities for the public to holiday in an attractive location. However this benefit is outweighed by the harm to the character and appearance of the Shropshire Hills Area of Outstanding Natural Beauty (AONB) that would be caused by the scattered siting of structures on the hillside, which would fail to protect and enhance countryside character and local distinctiveness. The environmental role of sustainability set out in the National Planning Policy Framework (NPPF) is not met by the proposal, which would be contrary to paragraph 115 of the NPPF, and the development would also be contrary to the Shropshire Local Development Framework Adopted Core Strategy (2011) policies CS5; CS6; CS13; CS16 and CS17, as well as the Shropshire Council Site Allocations and Management of Development (SAMDev)Plan (2015) policies MD2; MD11 and MD12.

40 Proposed Affordable Dwelling NE Of Lower Weston Farm, Clun, Shropshire (17/02528/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had undertaken a site visit and had viewed the site and had assessed the impact of a proposal on the surrounding area.

Councillor J Limond, representing Clun Town Council, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Nigel Hartin, as local Ward

Councillor, made a statement. He then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He supported the application;
- Weston was a loose knit settlement in its own right;
- The application ticked all the boxes applicant was from the local area, design was good and met the criteria and the proposal would sit well within the landscape;
- Applicant was a local person and this application would provide an opportunity to return and remain in the area;

Ms N Morris, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. Following advice from the Principal Planner with regard to appropriate conditions which should be attached to any permission, it was:

RESOLVED:

That, contrary to the Officer's recommendation, planning permission be granted, subject to:

- A Section 106 Legal Agreement to ensure the dwelling remains an affordable dwelling in perpetuity;
- That Planning Officers be granted delegated powers to attach appropriate conditions relating to materials, drainage, landscaping, boundary treatments, floor levels, maximum 100 sqm gross internal floor area, and any other conditions and informatives deemed necessary; and
- Removal of Permitted Development Rights.

(At this juncture, Councillor Cecilia Motley left the meeting.)

41 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 29 August 2017 be noted.

42 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 26 September 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Minutes of the South Planning Committee held on 29 August 2017				
Signed	(Chairman)			

Date:	

Agenda Item 5



Committee and date

South Planning Committee

26 September 2017

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/04716/VAR	Parish:	Ludlow Town Council			
Proposal: Variation of Condition No.2 (approved plans) attached to permission 14/00563/FUL dated 03/08/2015 to allow for underground fuel storage tanks to be approved by Environment Agency in place of semi-submerged tanks with additional parking at ground level					
Site Address: Brian Mear (Bricks) Ltd, The Brick Library, Bromfield Road, Ludlow Shropshire, SY8 1DN					
Applicant: Mead House Pension Scheme C/O Garrabost Trustees					
Case Officer: Graham French	email: planni	ngdmsw@shropshire.gov.uk			

Recommendation: Grant Permission subject to the conditions sets out in Appendix 1

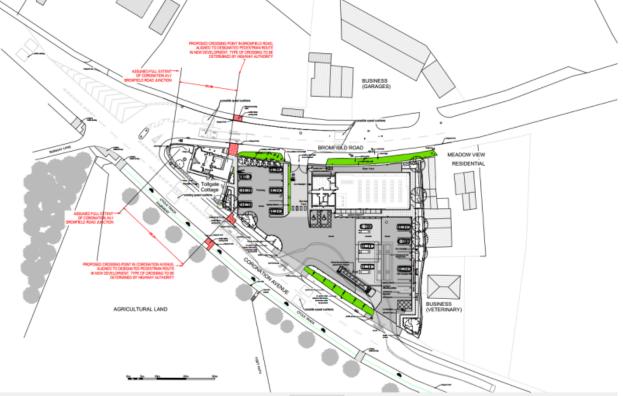


Figure 1 - Location

REPORT

1.0 THE PROPOSAL

- 1.1 Members will recall that full planning permission was granted for 'Demolition of existing buildings on former Burway Abattoir site and erection of proposed petrol filling station and ancillary convenience store with new vehicular access (revised scheme)' on 3rd August 2015 (14/00563/FUL).
- 1.2 The original design involved the provision of underground fuel storage tanks but this was amended to involve partially submerged storage tanks instead. This was in order to resolve objections from the Environment Agency. The current variation application seeks to re-introduce underground storage tanks at the site, with additional parking provision above. The application has been put forward following further discussions between the applicant and the Environment Agency.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The application site occupies a triangular plot of land located between Bromfield Road and Coronation Avenue. The site was formerly an abbatoir and is currently occupied by Brian Mear (Bricks) Ltd, a brick and paving merchant. The proposed the fuel storage tank occupies a rectangular plot at the north-western corner of the site.
- 2.2 The site is bounded by the premises of the Marches Veterinary Group to the east, Coronation Avenue and agricultural land to the south, Tollgate Cottage immediately to the west of the site and Bromfield Road and A.E.Jones Haulage and Corve Bridge Garage to the north. There is an existing access to Bromfield Road.
- 2.3 Planning permission was granted under 14/00651/COU and 14/00652/LBC on 2 September 2014 for the change of use of the Listed Tollgate Cottage adjoining the site to a café with residential accommodation above.
- 2.3 The site is in the Ludlow Conservation Area and within Flood Zone 2 with a small portion being in Flood Zone 3.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The application has been referred to committee by the local Member Andy Boddington because it raises complex technical issues and this decision has been ratified by the Chair and Vice Chair under the Council's Scheme of Delegation.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 <u>Ludlow Town Council:</u> No comments received.
- 4.2i. <u>Environment Agency</u> (22/11/16 Holding objection): Thank you for referring the above application which was received on the 26 October 2016 along with subsequent correspondence confirming the rationale behind the new submission. We object to the proposed Variation of Condition 2, to allow for underground tanks, and would offer the following comments for your consideration.

Site Location: As you are aware, from the previous submission, the proposed new Petrol Filing Station (PFS) is located within a sensitive groundwater area. The site is located on Raglan Mudstone Formation bedrock which is overlain by Bromfield Sand and Gravels. Both the solid geology and the superficial deposits are Secondary A aquifer which supplies private water abstractions and groundwater baseflows to local watercourses, such as the River Corve 80m to the east. The River Teme is 410m to the west of the site and is likely to be in connectivity with ground and other surface water features, such as the Springs and Boiling well 150m to the south west of the application area. The River Teme is also designation as a Site of Specific Scientific Interest (SSSI), adding to the sensitively. There are no further licensed groundwater abstractions present within 500m of the site, however your Council should hold records to confirm whether there are additional private water supplies within the near vicinity. The applicant is also advised to contact British Geological Survey (BGS) for records of any boreholes etc; and make enquiries with adjacent properties and landowners.

ii. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Paragraphs 120-121 of the NPPF state that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution. In addition, national guidance on the storage of potential pollutants is set out in our 'Groundwater Protection: Principles and Practice (GP3) (November 2012)' document which is available at:

http://www.environment-agency.gov.uk/research/library/publications/144346.aspx The GP3 guidance Policy D2 (underground storage) states we will agree to new and increased underground storage of hazardous substances on principal and secondary aquifers outside SPZ1 "...only if there is evidence of overriding reasons why:

- (a) the activity cannot take place on unproductive strata, and
- (b) the storage must be underground (for example public safety), in which case we expect the risks to be appropriately mitigated..."

Also, relevantly, Policy D3 - Sub water table storage states that "we will object to storage of hazardous substances below the water table in principal or secondary aquifers". The applicant is now seeking to revert to the initially proposed underground tanks in order to increase the parking on site. This application to vary Condition 2 has been submitted in anticipation of proposed amendments to the abovementioned GP3 and, specifically, Policy D3. However please note that, whilst changes to GP3 may be introduced in due course, at the time of this submission Policy D3 recommends an objection to storage below the water table.

I would also refer you to Policy CS18 of your Adopted Core Strategy which requires new development to enhance and protect water quality, including Shropshire's groundwater resources.

Application context: We previously agreed to partially submerged tanks which were located above the identified groundwater level and accorded with Policy D3 of GP3. These tanks were identified on the 'Section of Proposed Leak-Proof partially

submerged tanks Plan (Ref: PA-71, dated 3 December 2014). We had previously objected to the proposed development as it would have resulted in underground tanks within the water table. The submitted 'Risk Assessment for Underground Storage (SLR Ref: 404 -04287-0001) confirmed that the tanks would be partially beneath the water table. Table 3 of the Report confirmed that the estimated depth to Groundwater on the application site was 2.5m whilst Section 4.1 confirmed that the base of the tank would be 4m below ground level. Whilst the agreed, partially submerged, tanks were subsequently located above the groundwater level on site, as previously advised, our preference remained for 'above ground' storage tanks. GP3: Policy D2 states that tanks set completely above ground level and "any tank that is partially set in the ground in secondary containment and is totally accessible and wholly visible will also be considered to be an above ground tank". This is within the interests of being able to visually inspect the tanks, in addition to the necessary leak detection methods.

- Based on the Section Plan submitted (referenced above) whilst the agreed tanks iii. were set partially within the ground, they did not appear to be totally accessible or wholly visible and we would therefore deem the tanks as 'below ground'. Therefore, whilst the agreed tanks were set appropriately above the identified groundwater level, we recommended that your Council be satisfied that the tanks cannot be set 'above ground' (as defined above) or include tertiary containment system. It should be noted that the above stance was offered as a pragmatic solution to a constrained site in a sensitive groundwater area. Variation of Condition 2: In consideration of the above we would object to varying Condition 2, which seeks to revert to underground tanks within the water table. As outlined above, in accordance with our current Policy D3, 'we will object to storage of hazardous substances below the water table in principal or secondary aquifers'. Notwithstanding the above we acknowledge that changes to GP3 are currently being considered. However this has not been finalized and, therefore, the current GP3 is still extant. It is also likely that any forthcoming changes to GP3 would, in this instance, not negate the need for a detailed risk assessment and, in cases where such a risk assessment demonstrates that the groundwater provides an important contribution to drinking water supply, river flow or other sensitive surface waters or wetlands, we would still be minded to object.
- iv. The applicant may wish, in anticipation of a forthcoming change to GP3, to submit a detailed site specific risk assessment (following a source-pathway-receptor approach) but, as any change has not yet been finalized and introduced, this would be at their own risk and cost. The assessment would need to clearly demonstrate that below ground tanks are acceptable within this local site setting and that are also acceptable with the right mitigation in place in order to protect controlled waters. Even in consideration of a forthcoming amendment to GP3 we would object to storage below the water table without such assessment. Whilst the risk assessment may help to further consider the acceptability of the current proposed design we would advise caution with progressing prior to formal amendments to the above-mentioned GP3. We would therefore, in the first instance, recommend that the applicant maintain the partially submitted tanks as the more sustainable option. We would question the need for the design change which could, ultimately, increase the risk to groundwater.

- 4.2b <u>Environment Agency</u> (17/08/17 No objection):
 - i. Following on from discussions with my colleague, Helen Pickering, with regards to above, we have now reviewed the submitted 'Site Specific Risk Assessment for Underground Fuel Storage Tanks', Dated 2 August 2017. On the basis of the submitted detail we are satisfied that our objection to the proposed Variation of Condition 2 can be removed. We would offer the following comments for your consideration at this time. Whilst have not yet been formally reconsulted on the application it is understood that the above mentioned risk assessment has now been submitted to Shropshire Council for consideration. Site Location: The proposed new Petrol Filing Station (PFS) is located within a sensitive groundwater area. The site is located on Raglan Mudstone Formation bedrock which is overlain by Bromfield Sand and Gravels. Both the solid geology and the superficial deposits are Secondary A aquifer which supplies private water abstractions and groundwater baseflows to local watercourses, such as the River Corve 80m to the east.
 - National Planning Policy Framework (NPPF) paragraph 109 states that the planning ii. system should contribute, to and enhance, the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Paragraphs 120-121 of the NPPF state that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution. History: Having gained permission for the development with partially submerged tanks (Ref: 14/00563/FUL) the applicant requested a variation to condition 2 to allow below ground storage. We objected to the proposed variation as it was contrary to our, then, Groundwater Protection: Principles and Practice (GP3) and due to insufficient information submitted to justify the change to below ground tanks. The applicant submitted the application in anticipation of changes to our Groundwater Guidance, changes which have now been introduced. However, as stated in our response to the planning application, the changes to GP3 would, in this instance, not negate the need for a detailed risk assessment. The assessment needs to clearly demonstrate that below ground tanks are acceptable within this local site setting and that are also acceptable with the right mitigation in place in order to protect controlled waters.
 - iii. Groundwater Protection: As stated above we have recently introduced (14 March 2017) new guidance on groundwater protection which was previously known as GP3. The associated Technical Guidance and Position Statements can be viewed https://www.gov.uk/government/collections/groundwatervia the link below: protection Specifically, Section D within the groundwater protection document (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6204 38/LIT 7660.pdf) outlines our position with regards pollutant storage and transmission. Relevant to this application are Policies D2 and D3. D2-Underground Storage: We will normally object to new and increased underground storage of hazardous substances in Source Protection Zone (SPZ) 1. We will agree to such storage in principal and secondary aquifers outside SPZ1, as in this instance, only if there is evidence of overriding reasons why the:

- activity cannot take place within unproductive strata;
- storage must be underground (for example public safety), in which case it is expected that the risks are appropriately mitigated;

For all storage of pollutants underground (hazardous substances and nonhazardous pollutants), we expect operators to adopt appropriate engineering standards and have effective management systems in place. These should take into account the nature and volume of the materials stored and the sensitivity of groundwater. In principal and secondary aquifers we would expect the storage of hazardous substances to be within above ground tanks. However, we recognises that this may not always be reasonable when other risks (such as health and safety) are taken into account. Position statement D2 therefore allows for underground storage of hazardous substances, outside SPZ1, where there is sufficient evidence to justify such an approach. This should include both sitespecific and generic data on the performance of installations (providing this is appropriate to the materials being stored). We will not object to below ground storage in such situations provided there is evidence that:

- there are no suitable alternatives to below ground storage;
- redevelopment will maintain a low risk or significantly reduce an existing risk to groundwater;
- proposals comply with appropriate engineering standards and BAT;
- effective management systems will be in place;
- redevelopment does not bring the below ground storage nearer to any groundwater abstraction source, surface water or spring.

We would expect proposals for underground storage of pollutants in principal and secondary aquifers to be accompanied by a risk assessment appropriate to the volume and type of pollutants being stored and the hydrogeological situation. D3 - Sub Water Table Storage: We will normally object to any proposed new storage and transmission of hazardous substances below the water table in SPZ1. For all other proposed locations, a risk assessment must be conducted based on the nature and quantity of the hazardous substances and the physical nature of the location. Where this assessment demonstrates that there is a high risk of groundwater pollution, we will normally object to storage below the water table:

- in any strata where the groundwater provides an important contribution to drinking water supply, river flow or other sensitive surface waters or wetlands;
- within SPZ2 or 3;
- in a principal aquifer.

The Site Specific Risk Assessment (SLR Consulting, ref: 416.07479.00001, dated 2 August 2017), which has been produced after discussion with our Groundwater Team, confirms that the site falls outside of these parameters and we would offer the following comments on the detail submitted below.

Fate and Transport Assessment: The hydrocarbon contaminant transport modelling assessment and discussion provided simulating hydrocarbon migration should a leak take place demonstrates that the risks to the water environment are low once the mitigation measures (as defined) are in place to break pathways to controlled waters and provide the necessary total protection required. It is therefore agreed in principle that the risk assessment which includes fate and transport modelling based on site specific parameters, in addition to the proposed mitigation measures to protect groundwater, clearly demonstrate that a new petrol filling station with below ground tanks is acceptable within this site setting with the right mitigation in place.

In terms of the PFS installation we acknowledge that it will be designed and constructed in strictest accordance with the best practice guidance and standards following the APEA Blue Book – "Design, Construction, Modification, Maintenance and Decommissioning of Filling Stations". This acceptance of the reversion to below ground storage is on the basis that the defined mitigation and control options submitted to date, as detailed in the condition below, are implemented. Whilst, to date, we have not been formally re-consulted by Shropshire Council we would recommend that Condition 2 be amended to remove reference to PA-61a and a new Condition be applied to secure adherence to the above. (Condition and informative notes included in Appendix 1)

- 4.3 <u>SC Conservation</u> No objections.
- 4.4 <u>SC Archaeology</u>: No comments.
- 4.5 <u>SC Ecology</u> No comments.
- 4.6 <u>SC Highways</u> No objection subject to the development being carried out in accordance with the approved details. It is considered that the revised layout is adequate to accommodate the proposed development. Informative notes are recommended.
- 4.7a <u>SC Public Protection (1)</u>: Having considered the proposed layout Public Protection have no objection in principal to the proposal and are generally supportive of underground monitored tanks. However, looking at the proposed plans I can see no indication of where the off-set fills are located or where the vent pipes to the tanks will be positioned. Please can an amended site plan be submitted which shows the position of these elements. In addition a note of if the off-set fills will be above or below ground should be noted. The applicant should be made aware that above ground off set fills are preferred as they remove certain manual handling issues and maintenance complications. Should above ground off set fills be shown these would be accepted dependant on positioning however below ground off set fills would need further consideration.
- 4.7b <u>SC Public Protection (2)</u>: In general I have no objection to the proposals for the underground fuel tanks. Reasoning for this includes the fact that underground fuel tanks would remove the threat of tanks being driven into causing damage and potential significant spillage events. In addition underground tanks remove environmental degradation from the elements. Furthermore by placing the tanks beneath the forecourt this reduces the length of underground pipework to deliver fuel to pumps therefore reducing likelihood of a fuel escape event. It is noted that on the current plans it shows off-set fills marked as 'above/below ground to be reviewed'. Once finalised please consult for further comment if below ground is opted for.
- 4.8 <u>Councillor Andy Boddington</u>: I wish to call this application into the South Planning Committee. The proposal is to vary planning permission to allow for underground fuel storage tanks, allowing extra car parking at ground level. This site is at a very

sensitive location on the edge of a floodplain. The original proposal, approved by the South Planning Committee in May 2015, had fuel storage tanks that were mostly above ground (14/00563/FUL). I do not believe that the committee would have approved the application with below ground storage tanks. I am disappointed that this application has been put out to public consultation without any details of the proposed underground tanks being placed on the planning portal. This is not an outline application but a variation of full planning permission. Full information should have been provided before the public consultation began. I do not believe that any proposal for underground petrol storage will be acceptable on this site.

Public Comments

- 4.9 The application has been advertised in accordance with statutory provisions and the nearest residential properties have been individually notified. Representations have been received from thirteen individuals including some with more than one comments. Of these, twelve individuals have written objecting to the proposals. One has written in support and one respondent makes neutral observations. The main concern of objectors is the potential pollution risk of the proposed fuel tank undergrounding within a flood plain and the suggestion that any benefits from undergrounding would be outweighed by this risk. A summary of objector comments is provided below:
 - i. The previous application included the tanks raised to avoid environmental risk in the event of flooding. The level of the tanks is being lowered, a modification which is a reversal. The potential environmental impact is unacceptable. This is not a hypothetical situation because the tanks are located in the flood plain and in an area which has been totally and seriously flooded twice in the last ten years. The possibility of fuel getting into either flood water or into the ground structure is a real risk. This change permits four additional car park spaces giving potential commercial benefit but taking an unacceptable risk to our environment. It prevents proper monitoring and risks leakage into the water-table and pollution of water sources and local streets and properties. The original application only received approval due to the developer's agreement to locate fuel storage tanks above ground level. This was considered an essential requirement to reduce the potential risk of fuel contaminating the rivers Corve and Teme during flood conditions. This risk has not gone away and will be increasing year on year due to our inability to prevent the effects of climate change. This is a sensitive site close to the flood plain and the risk from any leak in this area would have enormous consequences for the area and ecology of the Corve and Teme. The application for variation makes no reference to reasons for changing the agreed layout of the tanks, apart from the gaining of extra parking spaces. Should a subterranean fracture occur, submerging the tanks in a well-documented flood plain would clearly have a catastrophic impact on properties and the environment in the area. Living at a time of climatic uncertainty, to undertake such a course of action is to be deeply regretted, particularly as this change of tank location is only of value to the developer to facilitate the provision of more car parking spaces.
 - ii. The high risk of leakage from USTs is well known and the setting of the applicant's site in terms of ground conditions, geological profile and groundwater are such that the proposal to site the tanks underground would fail an Environmental Impact

Assessment under Town and Country Planning (EIA) Regulations 2011. As I have already remarked for the initial application, the proposed site is close to greenfield land and is in sight of the meadows alongside the River Corve and the views of the Castle and Whitcliffe beyond. Of great relevance, but not addressed by the applicant, is the proving of sand and gravel as the site geology, confirming my earlier comments. The site sits on a well-established fluvioglacial terrace which extends down the right bank (western side) of the River Corve to the meadows beyond Coronation Avenue. Within the meadows is an historic sacred groundwater spring, the Boiling Well, which is a natural spring issuing from the same fluvioglacial terrace as the proposed development is sited. The groundwater level is relatively high and within these granular sediments. The risk of pollution from spillages is therefore extremely high and the documentation still does not make clear how contamination of the environment can be avoided (SLR report Nov 2014), a requirement by the Environment Agency. Thus the concerns previously expressed remain: that a surface spillage or a leakage of a UST ARE likely to permit significant contamination of the groundwater system with deleterious effects on the downstream ecosystem, which includes the Teme SSSI.

4.10i. <u>Friends of the Corve and Teme</u> (Ludlow's Flood Action Group): Objection. This request for a variation to the agreed requirement for above ground storage tanks should be opposed for the same reasons that existed 15 months ago when the original application was agreed. The applicant has made no case for the change. To quote Cllr Andy Boddington:

"This application had been in the planning system for more than fifteen months (14/00563/FUL). It had taken a good while to get right. The scale of the building was reduced, a safe pedestrian was agreed and the petrol tanks, which had previously been below ground, had been lifted out of the water table. Once these objectives had been achieved, there was no reason to turn the application down indeed, we could not have done under national planning rules. The petrol tanks and safe pedestrian crossing were crucial to the approval of the scheme. I urged the South Planning Committee to approve the scheme, giving Ludlow a much needed second petrol station. This is a sensitive site because it is close to the floodplain and has a high water table. Any leakage of fuel could be catastrophic for the ecology of the Corve and Teme. To reduce the risk to an absolute minimum, Mead House moved the petrol tanks above ground. The Convault tanks would be wrapped in an earth bund. They would be collision and pretty much bomb proof. Now Mead House wants to put the petrol tanks below ground into the water table. This will allow the company to reinstate four car parking spaces removed to accommodate the above ground tanks."

ii. The Environment Agency in their letter of 15th January 2015 clearly stated that their preference was for above ground storage in this sensitive location. They also state that the existing plans do not meet their preferred options but they are reluctantly agreeing to them on pragmatic grounds although there is no tertiary protection for leaks. "Whilst the proposed tanks are located above the groundwater level on site, as previously advised, in addition our preference would be for 'above ground' storage tanks. GP3: Policy D2 states that tanks set completely above ground level and "any tank that is partially set in the ground in secondary containment and is totally accessible and wholly visible will also be considered to be an above ground tank". This is within the interests of being able to visually inspect the tanks, in

addition to the necessary leak detection methods. Based on the Section Plan submitted (referenced above) whilst the proposed tanks are set partially within the ground, they do not appear to be totally accessible or wholly visible and we would therefore deem the tanks as 'below ground'. Whilst the proposed tanks are set appropriately above the identified groundwater level, we recommend that your Council are satisfied that the tanks cannot be set 'above ground' (as defined above) or include tertiary containment system. In the absence of the tanks being set above ground or within tertiary containment, being pragmatic we are not minded to object to the proposed development based on the likely risk to groundwater, the proposed tank design and bearing in mind the site context."

- iii. The application for variation makes no reference to reasons for changing the agreed layout of the tanks, apart from the gaining of extra parking spaces. How can local residents comment on this without more detail of the reasons underpinning the request? Leaks do happen, and the consequence of long term undetected leakage is obviously contaminated groundwater, leading to contamination in the connected surface waters. You cannot see or locate leaks from the tank(s) and over time even the best protected underground tank is at a significant risk of leakage. With the approved plans, the tanks are mostly above ground and it will be easy to access any leak. With tanks fully below ground, major works will be required to access the site of any leak. That will not happen quickly and all the time pollution will flow into the water table (already high and of concern) and into the Corve.
- iv. Ludlow residents are already concerned about drainage and surface water issues. When the river is level with the flood plain, the road at the bottom of Lower Corve Street floods, making access to some houses difficult. This brings the potential consequences of leaked fuel into the public domain. In looking at our flood response plan for the Corve and Teme, we believe, in extreme circumstances, the new garage could be at risk from flooding, with the added risk of contamination from the fuel storage tanks. In that event, but also in the event of fuel leakage outside of any flooding, it would be useful if we and the relevant Emergency Services could have emergency contact details for the garage owner/manager to be included in our flood response plan.
- 4.11 A supporter makes the following comments: 'If the Environment agency agree the changes with the applicant then surely it will make the project more viable. Viability has previously been taken into account on other applications decided favourably by Shropshire planning'.
- 4.12 <u>Ludlow Conservation Area Advisory Committee</u>: Neutral comments. Some members of the Committee were concerned that any leakage of fuels from an underground tank might go undetected. Others were reassured by the technical evidence and thought the visual improvement to the scheme was to its benefit.

5.0 THE MAIN ISSUES

- Principle of development and policy context;
- Pollution risk.

6.0 OFFICER APPRAISAL

- 6.1 <u>Context and principle of development</u>:
- 6.1.1 Core Strategy Policies CS6, CS17 and CS18 and SAMDev Policy MD12 require that water resources are protected from pollution in accordance with paragraphs 120 and 121 of the NPPF and the associated technical guidance on water supply, waste water and water quality (DCLG, March 2015). In general, development cannot be supported where there is an unacceptable risk of pollution to water resources.
- 6.1.2 The principle of allowing a petrol filling station at this existing brownfield site has been established under permission reference 14/00563/FUL approved on 3rd August 2015. The approved scheme involved partially submerging the fuel storage tanks and covering the area of upstand with a 2m high grassed earth bund, parts of which would be visible externally. Originally the applicant had sought to place the tanks entirely underground and to use the area above them for parking but an earlier 2013 scheme was withdrawn following objection from the Environment Agency (EA).
- 6.1.3 Since this time the national guidance employed by the EA regarding underground storage tanks in flood plain areas has changed and is now more supportive of this practice where appropriate safeguards can be demonstrated. The applicant's consultant has submitted a site specific risk assessment setting out mitigation measures which would apply and this has been accepted by the EA. The Council's Public Protection service has also not objected and has remarked that undergrounding would prevent the risk of a vehicle colliding with the tank. It would also reduce the length of the supply pipework, thereby also reducing the risk of leakage. The conclusions of the applicant's risk assessment are summarised in the succeeding section.
- 6.1.3 In terms of justification, the applicant considers that the additional 6 parking spaces which could be delivered at the site would represent a significant improvement. Parking is limited within the site and additional parking would be beneficial, including for the café use which has been approved for Tollgate House under a previous planning consent. The previous requirement to construct an earth bank immediately behind the retained stone wall on this margin of the site also raised potential structural issues regarding the wall and restricted options for landscape planting on this margin. The current proposals represent a more optimal use of the available space and would facilitate conventional shrub planting on the inside of the wall. These benefits need to be assessed against the concerns of local residents regarding the risk of pollution to water resources. (Core Strategy Policy CS18)

6.2 <u>Detailed pollution control considerations</u>

6.2.1 The Environment Agency (EA) is the relevant technical expert for pollution control issues and has not objected to the scheme. Government advice states that planning authorities should not seek to duplicate the controls of other regulatory regimes such as that implemented by the EA and should assume that other agencies will implement these regimes effectively.

6.2.2 The EA has advised that since their initial objection to the application changes have been made to the Agency's approach to Groundwater Protection (formally called GP3). These new position statements can be found at: https://www.gov.uk/government/collections/groundwater-protection The offer added scope (in Policies D1 and D2) with regards to allowing underground fuel storage. In consideration of the Policy changes the EA has accepted the principle of reverting to underground storage. A risk assessment required by the EA has been produced by the applicant's consultant and demonstrates that below ground tanks are acceptable within this local setting. Key conclusions of the risk assessment are as follows:

'As set out in previous UST risk assessment report (April 2014) the likelihood of a leak to ground is very small due to utilisation of:

- double-skinned tanks built in accordance with BS EN 12285-1 with pipework built in accordance with EN 14125;
- Real Time Leak Detection Systems including interstitial monitoring of the void between the inner and outer tank skins, and automatic wet-stock monitoring using statistical inventory reconciliation system;
- groundwater monitoring network around the tank farm to enable monitoring of groundwater quality and recovery of fuel loss; and
- implementation of an incident response procedure'.

'Given the protection measures outlined above the risk of a fuel release to ground from the UST is extremely small. Should a leak occur beyond the second skin of the tank it is likely to be limited to a small volume before it is detected and mitigation measures implemented. Therefore, it is envisaged that the maximum volume that could be foreseeably lost would be limited to less than 1.000 litres of fuel, which would impact the aquifer in the immediate proximity to the tanks only'. 'The shallow aquifer is likely aerobic and highly conducive to attenuation of hydrocarbons along the groundwater flow pathway'. 'The results indicate that even when modelling attenuation in dissolved phases only, any dissolved phase impact in proximity to the underground storage tanks would attenuate to below the adopted water quality standards prior to entry into the river. The calculated remedial target concentrations are significantly above the theoretical source concentration solubility limits for all CoCs modelled'. 'The results also indicate that the shortest travel time between the source and the receptor would be 55 years, which clearly demonstrate that there is sufficient time to respond to a release from the Site in the event of an infrastructure failure.

- 6.2.3 The risk assessment concludes as follows:
 - *'The River Corve is the most sensitive receptor in proximity to the Site;*
 - Groundwater flow is to the south-east towards the River Corve;
 - The likelihood of a fuel release to ground is very small and detection and monitoring systems would identify a release in a short period of time. As such the scale of any loss to ground would be small and free-phase fuel impact would likely be limited to only small area in proximity to the affected infrastructure;
 - Fate and transport modelling of key constituents of concern (based on CL:AIRE 2017) indicate that, even with phase source concentrations at

effective solubility limits, the aquifer has capacity to attenuate hydrocarbon impact to concentrations below adopted water quality standard within the distance between the Site and the river;

- Sensitivity analysis has indicated that, even when accounting for a very high permeability scenario, the travel time between the source and the river would be at least 14 years. This would allow a robust emergency incident response to be implemented without risk of rapid migration of hydrocarbons to the River Corve.
- Given the conclusions of the additional risk assessment work, coupled with the proposed infrastructure standards and monitoring systems, the risk posed by the proposed development to controlled waters is acceptably low'.
- 6.2.4 These conclusions have been accepted by the EA who have withdrawn their objections and recommend a condition requiring compliance with the provisions of the mitigation scheme (included in Appendix 1).
- 7.0 CONCLUSION
- 7.1 Whilst the concerns of objectors regarding pollution of the River Teme and groundwater are noted the EA is the relevant technical consultee for pollution matters and has concluded that the proposal to underground the fuel storage tanks can be accepted. This is given the significant measures which have been put forward to protect groundwater including a double-skinned tank with leak detection and also the evidence put forward regarding pollution pathways in the applicant's pollution risk assessment.
- 7.2 Regulatory services (Public Protection) have also not objected and acknowledge that undergrounding reduces some pollution risks by preventing risk of collision and shortening supply pipework. It is concluded on this basis that an objection on the grounds of pollution control could not be substantiated.
- 7.3 The undergrounding proposals would deliver benefits in terms of increased parking provision which is considered to be desirable given the limited parking within the site and the non-fuel-sales retail element of the scheme. It would also avoid the need to construct a large and visually prominent earth bund within the site. Highways consider the revised layout to be satisfactory.
- 7.4 It is considered that the proposals are sustainable and compliant with the NPPF and relevant planning policies covering pollution, sustainability and environmental protection. Permission is therefore recommended, subject to appropriate conditions.
- 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL
- 8.1 <u>Risk Management</u>: There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry. If the decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will intervene where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds for making 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 <u>Human Rights</u>: 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 <u>Equalities</u>: The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under Section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning History:

Relevant Planning Policies:

Central Government Guidance:

- 10.1 <u>National Planning Policy Framework</u> (NPPF) (DCLG July 2011)
- 10.1.1 Relevant areas covered by the NPPF are referred to in section 6 above and include:
 - 1. Building a strong, competitive economy;

Contact: Tim Rogers (01743) 258773 Page 20

- 3. Supporting a prosperous rural economy;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment.

10.2 <u>Core Strategy</u>:

- CS6: Sustainable Design and Development Principles;
- Policy CS7: Communications and Transport;
- CS17: Environmental Networks;
- Policy CS18: Water protection.

10.3 <u>SAMDev</u>:

- MD2 Sustainable Design;
- MD8 –Infrastructure Provision;
- MD12: The Natural Environment.

11. ADDITIONAL INFORMATION

View details online:

https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OEZZHRTDHLN00

List of Background Papers: Planning application reference 16/04716/VAR and associated location plan and documents

Cabinet Member (Portfolio Holder) Cllr R. Macey

Local Member: Cllr Andy Boddington

Appendices: Appendix 1 – Conditions

APPENDIX 1

Planning Conditions

1. Condition 2 of planning permission 14/00563/FUL is hereby varied in order to allow substitution of the following amended plans and supporting documents which facilitate the provision of underground fuel storage tanks in place of semi-submerged tanks with additional parking at ground level:

Amended Plans:

- i. The originally approved plan reference PA61-a (Block Plan) accompanying permission reference 14/00563/FUL is hereby replaced by plan reference PA-61b.
- ii. The originally approved plan reference PA72-a (Block Plan) accompanying permission reference 14/00563/FUL is hereby replaced by plan reference PA72-d.
- iii. The originally approved plan reference PA63-d (Proposed Street Elevations) accompanying permission reference 14/00563/FUL is hereby replaced by the amended plan with the same reference accompanying the current application.
- iv. The originally approved plan reference PA73 (Tank Installation) accompanying permission reference 14/00563/FUL is hereby replaced by the plan with the same reference dated 08/11/16.

Supporting Document:

i. Letter from SLR Consulting dated 2nd August 2017 (further site specific risk assessment)

Reason: To define the approved scheme as varied.

The following conditions shall also apply:

2. The development to which this planning permission relates shall be commenced within three years beginning with the date of this permission.

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

- 3. The petrol filling station infrastructure shall be constructed in accordance with the documents submitted to Shropshire Council, specifically:
 - i. WD12 Tank Installation Details DRW N0 PA-73 (Adcock Associates, dated 08/11/16);
 - ii. Risk Items and Mitigation Measures (Adcock Associate's, dated November 2016);
 - iii. Assessment of Considerations Determining Installation of USF's (Adcock (included in Appendix 1)Associates, dated November 2016);

- iv. Underground Storage Tanks Mitigation Measures (Adcock Associates, dated November 2016);
- v. Site Specific Risk Assessment (SLR Consulting, Ref: 416.07479.00001, dated 02/08/17),

Reason: To protect controlled waters from the discharge of hazardous substances.

4. If below ground off-set fills are used then details shall be submitted to and approved in writing by the County Planning Authority prior to the commencement of the development.

Reason: In the interests of pollution control.

INFORMATIVES

Pollution control:

- i. Operators of petrol filling stations should take appropriate measures to manage their sites to ensure they do not cause an unacceptable risk to groundwater quality. The Environment Agency has powers to take action where groundwater pollution occurs, or is likely to occur. If pollution was to occur, Section 161, Water Resources Act 1991 empowers us to recover all costs reasonably incurred in:
 - carrying out works, operations or investigations to prevent pollution of surface waters or groundwater;
 - undertaking remedial action following a pollution of surface waters or groundwater. Should we be required to undertake such work we would be able to recover these from the company or person responsible.

Where we consider that other forms of control or voluntary action do not give sufficient protection to groundwater, we will serve EPR groundwater activity notices to avoid or restrict inputs of pollutants to groundwater including from, for example, underground storage and distribution facilities

Highways:

- ii. <u>No drainage to discharge to highway</u>: Drainage arrangements shall be provided to ensure that surface water from the car parking and turning areas do not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- iii. <u>Works on, within or abutting the public highway</u>: This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (footway or verge) or
 - carry out any works within the publicly maintained highway, or
 - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
 - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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

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

- iv. <u>Disabled needs</u>: The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.
- v. <u>Affected street lighting or illuminated signs</u>: This permission does not authorise the re-siting of any street lighting columns or illuminated road traffic signs affected by the proposed development. The applicant should contact Shropshire County Council, for the necessary approval. Precise details of all works within the public highway must be agreed with Shropshire Council.
- vi. <u>Brightness of illuminated signs</u>: The brightness of the floodlit surface, or illuminated sign face, shall not exceed the values stipulated in the Institution of Lighting Engineers Technical Report No.5:1991 "The Brightness of Illuminated Advertisements".

Previous planning approvals

vii. All other conditions imposed on the original full planning permission (ref 14/00563/FUL) remain in full force and are unaffected by this notice.

Agenda Item 6



Committee and date

South Planning Committee

26 September 2017

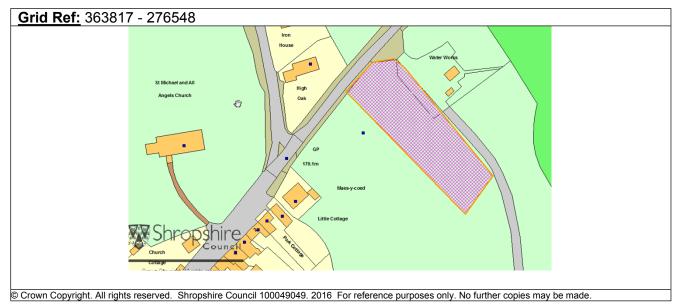
Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 17/00766/FUL	<u>Parish</u> :	Hopton Wafers				
Proposal : Modification to previously approved (13/05064/FUL) to allow for the erection of one dwelling with single storey rear extension and roof terrace and re-positioning of approved garage (plot 3 only)						
Site Address: Land West Of Water Works Hopton Wafers Shropshire						
Applicant: Mr K Parkes						
Case Officer: Vincent Maher	email: vincen	t.maher@shropshire.gov.uk				



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

REPORT

1.0 **THE PROPOSAL**

- 1.1 Planning permission was granted in February 2015 for three detached x two storey dwellings on land to the north of Maes y Coed and the Water Works at Hopton Wafers (refer 13/05064/FUL), granted in 2015. The site has been fenced off ready for construction. The current proposal seeks to vary the original permission at it relates to Plot 3, the northernmost of the three houses.
- 1.2 Relative to the approved dwelling, the main changes to the proposal are as follows:
 - The dwelling would have a full width single storey rear extension (4m in depth) and a first floor balcony that runs the width of the house and would project 1.2m above the main building line of the ground floor of the dwelling.
 - There would be full floor to ceiling windows at the first floor rear of the house.
 - The proposed porch would now be glazed rather than open and is slightly wider.
 - The garage associated with the approved dwelling has been altered marginally.
- 1.3 The site plan for the purpose of this application is the same as that shown on the original 2013 permission. The applicant has also shown a further line that appears to extend the curtilage of all three dwellings. This application has not sought to extend the curtilage of the dwellings and so this apparently extended boundary has not been considered as part of this application.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a cleared area of land bordering the Water Works at Hopton Wafers. There is a house at High Oak to the north west of the site. Plots 2 and 1 of the approved scheme are located to the south west. The site backs onto open countryside to the south east.
- 2.2 While not in Conservation Area (CA), there is a cluster of listed buildings to the south west of the site screened from the proposed dwelling by the house. Further afield, the St Michael and All Angels Church to the west is a Grade II* listed building and there are listed gravestones and other designated heritage assets within the church graveyard. High Oak is not a listed building.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Parish Council view is contrary to the Officer recommendation. The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Officer, acknowledge the local sensitivities in this case and consider that the material planning considerations raised warrant consideration by the South Planning Committee.

4.0 **Community Representations**

Consultee Comments

Hopton Wafers Parish Council: Objection.

Balcony and porch out of keeping with rural area. Garage block may block visibility due to proximity to property and the road. Unresolved issues with the planning boundary and impact on neighbours. No CIL money has been paid to the community. Amendments offer little improvement on original scheme.

SC Drainage: Surface and foul water drainage consistent with 2013 planning permission.

SC Affordable Housing: s106 contribution still applies.

SC Highways: Re-siting of garage to enhance parking area does not have detrimental effect on the highway. Other modifications not relevant to highways.

SC Archaeology: No archaeology comments

Public Comments

Objections have been submitted from 3 neighbours raising the following matters.

- Site area at odds with earlier permission. Unresolved boundary issue needs to be resolved.
- Front entrance porch not in keeping with rural setting.
- Rear extension not in keeping with others. Terrace would cause overlooking. Reduced size terrace still unacceptable.
- The original two year permission on the start of build has expired so nees a fresh application.
- Local people oppose this development.

5.0 **THE MAIN ISSUES**

Principle of development Siting, scale and design of development Visual impact Other matters

6.0 **OFFICER APPRAISAL**

- 6.1 Principle of development
- 6.1.1 The principle of the development is not in dispute. The site has an extant planning permission for three houses and permission was granted following the adoption of the Core Strategy. Hopton Wafers along with Doddington is identified as a Community Cluster (refer SAMDev S6.2(ii)) where limited new housing development is supported. It reinforces the acceptability of new housing that is sensitively designed in this village.

- 6.2 Siting, scale and design of development
- 6.2.1 The property is not in a CA and the revisions sought to the front façade are minor and do not materially alter the overall scale and massing or materials of the new home. Officers have carefully reviewed concerns about the proposed changes in the porch. The introduction of a glazed porch is acceptable in these circumstances as it would not adversely affect the setting of any nearby listed building.
- 6.2.2 The only significant change is the proposed first floor balcony. No other such form was observed in the village. The balcony is of a modest depth and is such that it is unlikely to be extensively used. Moreover, the proposed balcony is set back from the rear building line of Plot 2. In these circumstances, it is submitted that the development would not result in serious levels of overlooking that would seriously affect the living conditions of neighbouring residents.
- 6.3 Visual impact and landscaping
- 6.3.1 The dwelling has an outlook onto open countryside. It is submitted that the rear alterations to the rear elevation proposed would not result in any material change when viewed from this land or from the Water Works to the north east. It would not conflict with Core Strategy Policy CS6 or SAMDev Policy MD2. Conditions to secure landscaping will reduce any impact on the surrounding area.
- 6.4 Other matters
- 6.4.1 The original application remains subject to a s106 agreement to deliver affordable housing on the site. This has now been triggered with the starting of works on site. An informative to this decision makes clear that the application relates to the site boundaries marked red on the plan and not the extended area of curtilage shown on the submitted plans.

7.0 CONCLUSION

7.1 The alterations are modest and acceptable in a site context that is outside of a CA and some distance from a listed building. The conditions covering planning permission 13/05064/FUL have been replicated in this permission for the same of consistency.

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 three months after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 **Financial Implications**

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

10. Background

Relevant Planning Policies

Central Government Guidance: National Planning Policy Framework National Planning Practice Guidance

Shropshire Core Strategy and SAMDev Plan:

CS1 – Strategic Approach

CS4 – Community Hubs and Clusters

CS6 – Sustainable Design and Development Principles

- CS11 Type and Affordability of Housing
- CS17 Environmental Networks
- CS18 Sustainable Water Management
- MD2 Sustainable Design
- MD3 Delivery of Housing Development
- MD12 Natural Environment
- MD13 Historic Environment
- S6 Cleobury Mortimer Area

RELEVANT PLANNING HISTORY:

13/01950/FUL Erection of three dwellings with garages REFUSE 12th September 2013 13/05064/FUL Erection of three dwellings with garages GRANT 25th February 2015 15/01417/DIS Discharge of conditions 3 (materials) 4 (drainage) 5 (landscaping) 6 (Archeological) Erection of three dwellings with garages of planning permission 13/05064/FUL DISAPP 6th October 2015

15/02486/VAR Variation of condition 2 attached to Planning Permission 13/05064/FUL dated 25th February 2015 to amend the rear boundary GRANT 22nd October 2015

11. Additional Information

View details online:

https://pa.shropshire.gov.uk/onlineapplications/applicationDetails.do?activeTab=documents&keyVal=OLIYRJTD07U00

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

Cabinet Member (Portfolio Holder) Cllr R. Macey Local Member

Cllr Gwilym Butler Cllr Madge Shineton Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

4. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

Means of enclosure Hard surfacing materials Planting plans Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

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

6. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) that should initially comprise a desk based archaeological assessment/heritage statement that takes into consideration any possible direct impact on known/unknown archaeological resources and any issues of setting, if any, on both designated and undesignated heritage assets. Further archaeological mitigation may be required depending on the results of the archaeological assessment. This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: Aerial photographic survey in 1991 identified surviving earthworks of ridge and furrow and a possible hollow way (HER PRN 04676) within the development boundary.

The proposed development proposal can therefore be deemed to have some archaeological potential that requires investigation before development commences.

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

7. A total of 1 woodcrete artificial nest suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan to be submitted to and agreed in writing with the Local Planning Authority prior to first occupation of the building hereby permitted.

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

8. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted as shown on a site plan agreed in writing with the Local Planning Authority. The box must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

9. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

10. 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

1. INFORMATIVES

Site area

In issuing this permission, the Council has relied on the location plan for Plot 3 edged red on the submitted block plan. The Council is not sanctioning an extension of the area of the site for development and draws your attention to the terms of the original permission.

Proactive working

The Council has worked proactively with the developer on this application consistent with government advice set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Surface Water Drainage

The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. Appendix 'D' of the Shropshire Council's Surface Water Management: Interim Guidance for Developers should also be completed and submitted..

The applicant should consider employing measures such as the following:

- Water Butts
- Rainwater harvesting system
- Permeable surfacing on any new driveway, parking area/ paved area
- Greywater recycling system

Consent is required from the service provider to connect into the foul main sewer.

Bats

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).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

Nesting Birds

Planning Committee – 26 September 2017	Land West Of Water Works, Hopton Wafers

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note:

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Badgers

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

Landscaping Plan

The loss of hedgerow should be compensated by additional native species trees and hedge planting. A native species hedge should replace the post and rail fence proposed for the south boundary. This should contain a minimum of 5 woody species.

Electric Charging Points

The developer is encouraged to provide an independent 32 amp radial circuit isolation switch at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

Agenda Item 7



Committee and date

South Planning Committee

26 September 2017

Development Management Report

Responsible Officer: Tim Rogers

opshike

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

Summary of Application

Application Number: 17/02441/FUL	<u>Parish</u> :	Chelmarsh	
Proposal : Erection of an affordable dwelling, with detached double garage, alterations to existing vehicular access and installation of a septic tank			
<u>Site Address</u> : Proposed Affordable Dwelling North Of Spring Vale Farm Occupation Lane Chelmarsh Bridgnorth Shropshire			
Applicant: Mr & Mrs K Bradley			
Case Officer: Lynn Parker email: planningdmse@shropshire.gov.uk			
<u>Grid Ref:</u> 372307 - 286530			
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Recommendation:- Refuse

Recommended Reason for refusal

- 1. The site is in open countryside and not within or adjoining any recognisable named settlement. Consequently, and notwithstanding the fact that the applicants have been found to fulfil the local connections and housing need criteria for a designated affordable home, the principle of the proposed development is contrary to the National Planning Policy Framework, Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy, Policies MD3 and MD7a of the Shropshire Council Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.
- 2. By reason of its projection into an existing field, the development would erode the open character of the surrounding rural landscape and result in the permanent loss of Grade 3 agricultural land which would not appropriately conserve a natural asset. It would, therefore, be contrary to the National Planning Policy Framework, Policies CS5, CS6, and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, and Policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development Plan.

REPORT

- 1.0 THE PROPOSAL
- 1.1 This application is for the erection of a dwelling, detached garage and septic tank under the Council's single plot affordable scheme on agricultural land within the ownership of the applicant on land north of Spring Vale Farm, Occupation Lane, Chelmarsh. The proposed plot covers approximately 773m². The dwelling is proposed as a two storey property with a gross internal floorspace of approximately 100m², with a footprint measuring 12.81m wide x 5.85m in depth x 8.65m to ridge height, 5.25m to eaves resulting in a footprint of approximately 68m². It would accommodate a hall, lounge, dining/kitchen, utility and WC at ground floor level, and three bedrooms and a bathroom at first floor level. The utility and WC are indicated within a single storey element on the north facing side elevation. Design features include a chimney on the south facing elevation, a steep pitched roof, and an open timber porch.
- 1.2 Additionally, a double garage is proposed to be located adjacent to the north east corner of the dwelling to measure approximately 7.2m wide x 4.95m in depth x 5.6m to ridge height, 2.7m to eaves. Two timber doors are proposed to the south facing front elevation, a pedestrian door to the west facing side elevation, and a single window on the north facing rear elevation. Both structures are proposed with dual-pitched roof and side gables.
- 1.3 Materials are proposed as brick walls, tiled roofs, UPVC timber effect windows and timber doors. A new vehicular access is proposed to the south east of the plot off

Occupation Lane which would extend into a gravelled area of hardstanding covering approximately 200m² across the whole front of the dwelling to the garage and along the south facing side elevation. The rear garden area would amount to approximately 332m². Foul sewage is proposed to be disposed of via septic tank to be located off the north west corner of the dwelling and surface water to a soakaway positioned in the same direction but within the adjacent field within family ownership.

1.4 In addition to the Design and Access Statement, a Letter from the Housing Enabling Officer dated 6th March 2017, and a Support Letter from the Parish Council dated 13th January 2017 have been submitted in support of the proposal.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within open countryside to the south of the settlement of Chelmarsh which itself is designated as open countryside. It is accessed from the B4555 to the east via Covert Lane (C4241) and Occupation Lane, a track with grass along the centre. The roughly square plot is positioned on agricultural land used for grazing sheep to the north side of Spring Vale Farm which comprises a number of agricultural buildings set along Occupation Lane with a farmhouse behind. The field extends for some 150m to the north, 100m to the west, and around the rear of the farm buildings approximately 50m to the south enclosed within a perimeter boundary of mature native hedging. There is also agricultural land across Occupation Lane to the east. There are no trees in the vicinity of the proposed plot and the land is generally open and level.
- 2.2 The farmhouse at Spring Vale Farm lies approximately 38m to the south of the plot, otherwise the nearest property is at 'The Poplars' approximately 120m across the fields to the east. The area is predominantly agricultural with sporadic and isolated plots of built environment positioned inbetween large sized fields. This built environment consists of a mixture of residential, tourism and agricultural uses.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has expressed a view contrary to the Officer recommendation and the Local Member has requested that the application be determined by Committee. Principal Planning Officer in consultation with the Committee Chairman and Vice Chairman agrees that the Parish Council has raised material planning issues that warrant consideration by the South Planning Committee.
- 4.0 Community Representations
- 4.1 Consultee Comments
- 4.1.1 Chelmarsh Parish Council Councillors fully supported this application to enable a local family to remain in the parish, subject to all Building Regs etc. being adhered to.

- 4.1.2 SC Affordable Housing After considering the couples housing needs and personal circumstances, it is confirmed that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.
- 4.1.3 SC Drainage Informative recommended in relation to a sustainable drainage scheme for the disposal of surface water from the development.
- 4.1.4 SC Highways No objection. Informatives recommended.
- 4.2 Public Comments
- 4.2.1 Site notice erected 9th June 2017. Eight letters of public representation have been received which all offer support for the proposal. These are available to view online, however, are summarised as follows:
 - o The family are longstanding and popular members of the community.
 - o The proposed home will enable them to remain at the heart of their community for generations to come.
 - o Mr Bradley and his sisters were born and brought up on the farm.
 - o The Bradley's family have lived in Occupation Lane for over 100 years.
 - It is of the utmost importance that people who are born and still live in the village of Chelmarsh should be given the opportunity to own their own home via the affordable dwelling programme.
 - We need more affordable dwellings like this in Chelmarsh to enable people with young families to remain in the village.
 - o The proposed plans are of a sympathetic nature and blend in with the surroundings.
 - o The access is good and the proposed site does not overlook or affect any other properties.
- 5.0 THE MAIN ISSUES
 - o Principle of development
 - o Design, scale and character
 - o Impact on the wider environment
 - o Access
- 6.0 OFFICER APPRAISAL
- 6.1 Principle of development
- 6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters'), as identified in the SAMDev Plan. Isolated or sporadic development in open countryside (i.e. on sites outside the

named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.

- 6.1.2 The site is positioned in open countryside outside of any development boundaries designated under existing Planning Policies. LDF Core Strategy Policy CS5 states that new development will be strictly controlled in accordance with National Planning Policies protecting the countryside. The policy goes on to state that proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. In relation to new housing proposals, Policy CS5 identifies specific types of development which may be acceptable, including dwellings for agricultural, forestry or other essential countryside workers, or other affordable housing/accommodation to meet a local need, or conversion of a building of historic merit. Policy MD7a of the SAMDev Plan reinforces CS5.
- 6.1.3 As noted above under LDF Core Strategy Policy CS5 new development in the countryside is strictly controlled, however, potentially acceptable development does include the erection of new dwellings which provide affordable housing/accommodation to meet a local need in accordance with Policy CS11. In support, SAMDev Policy MD7a states that suitably designed and located exception site dwellings will be positively considered where they meet evidenced local housing needs and other relevant policy requirement.
- 6.1.4 LDF Core Strategy Policy CS11 supports the provision of affordable housing on suitable sites in recognisable named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity i.e. the completion of a Section 106 Legal Agreement to secure the dwelling as affordable, before an Approval Decision is issued for any such application.
- 6.1.5 The build your own affordable home on a single plot exception site scheme is detailed in Chapter 5 of the SPD Type And Affordability Of Housing beginning at paragraph 5.10. Applicants will normally be the prospective occupiers of the proposed single plot affordable dwelling and must qualify for the scheme by demonstrating the following points (summarised) to the satisfaction of the Housing Enabling Officer.
 - 1. That they are in housing need and are unable to identify or afford a suitable alternative home currently available for sale on the open market in the local area or within 5km of the proposed site.
 - 2. That they have a strong local connection to the area. Applicants are expected to be proactive obtaining formal written confirmation of their 'strong local connection' from the relevant Parish Council.

- 3. That their housing need should be met in the local area
- 6.1.6 The SC Housing Enabling Officer has confirmed that Mr and Mrs Bradley have demonstrated strong local connections to the Chelmarsh Parish Council administrative area. After considering the couples housing needs and personal circumstances, it is also confirmed that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.
- 6.1.7 The Local Housing Need elements of this application were established as follows from information presented to the SC Housing Enabling Officer in January 2017:
 - Mr and Mrs Bradley intend to construct a 100m² (max) affordable dwelling on land north of Spring Vale Farm, Occupation Lane, Chelmarsh to occupy as their long-term family home. This dwelling will be subject to a Section 106 Agreement prescribing local occupancy criteria, restricting property size and any potential future sale value.
 - o The couple currently rent a property a short distance away. As their current home is rented this is not considered suitable for their long-term housing needs and aspirations.
 - o Chelmarsh Parish Council had no hesitation in confirming Mr Bradley's local connection on the basis he was born and bred in Chelmarsh, he attended the local primary school, he has lived and worked locally all of his life, his family have lived in Chelmarsh for many years and that he and his sister still live in the parish.
 - o Mr Bradley has strong connections to the parish with he and his family living and working in Chelmarsh for over 100 years. Mr Bradley provides general help and support to his sister who lives at Spring Vale Farm, a property that was previously owned by his parents. Due to suffering with back problems and being under chiropractic care Ann Bradley relies on Mr Bradley to provide support, continued maintenance on the farm, upkeep of the buildings and fields. He also regularly assists neighbours and friends living in Chelmarsh Common.
 - Mr and Mrs Bradley's second child is due in August and their rented home has limited space for a growing family. A move closer in proximity to Mr Bradley's sister would also enable immediate family to assist with care and support.

Mr and Mrs Bradley have therefore demonstrated housing need, strong local connections and a need to live in the local area. Moreover, due to issues of affordability and availability they are unable to meet their families housing need from the open market in the parish.

6.1.8 Single plot affordable exception sites are permitted in locations that would not normally obtain Planning Permission for new open market residential development,

as they are intended to engender additional community resilience and sustainability. However this does not translate as free rein to always allow single plot affordable dwellings wherever they are proposed. Policy CS11 permits exception sites for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and other Key Centres, Community Hubs, Community Clusters, and sites which are demonstrably part of or adjacent to recognised named settlements of all sizes. Sites that do not lie in a settlement, constituting isolated or sporadic development or which would adversely affect the landscape, local historic or rural character are not considered acceptable.

- 6.1.9 Within the submitted Design and Access Statement it is presented that the proposed site is within the small settlement of Chelmarsh Common, and that Occupation Lane provides direct and intentional historic connectivity between Chelmarsh, Chelmarsh Common and Sutton. Eight properties are listed as being within 500m of Spring Vale Farm. Additionally that Chelmarsh Common is a loose-knit settlement marked on the OS map and is locally referred to as either Chelmarsh Common or Occupation Lane.
- 6.1.10 The SPD Type and Affordability of Housing confirms that a settlement always comprises a group of houses occupied by households from different families which only becomes a settlement due to the number and proximity of the houses in the group. It is this quantity/ dispersion pattern combination which determines whether dwellings constitute a settlement.
- 6.1.11 Spring Vale Farm is an isolated, contained site surrounded by functioning agricultural land. The proposed development would project out from the existing containment of the buildings at Spring Vale Farm into Grade 3 agricultural grazing land resulting in a more irregular, less viable field shape. Fields lie for approximately 230m to the north, 200m to the south, 95m to the east and 1,400m to the west before there is any neighbouring built environment. This results in a very clear separation of the site from any other individual or groups of properties in the vicinity and there is no leaded road connection between them. There are nearby areas of development that could be described as 'groups', for example, approximately 185m to the east where dwellings are strung along Covert Lane, and approximately 265m to the north at Rowley Farm where the built environment is located on both sides of Occupation Lane. However, these pockets have no visual association with Spring Vale Farm. Furthermore Occupation Lane is not a made road, it is essentially a farm track with grass growing down the middle. There is no vehicular access through to Rowley Farm and further north to Chelmarsh as a 150m section of Occupation Lane directly south of Rowley Farm is blocked off to all but agricultural vehicles, although it is a bridleway and therefore accessible as a public right of way. Chelmarsh itself is approximately 1km to the north and whilst would be regarded as a settlement, is designated as open countryside where new open market residential development would not be supported i.e. it is not a location regarded as acceptable for promoting economic, social and environmental sustainability. There have been a number of Pre-Application Enguiries relating to affordable dwellings around the Occupation Lane area, however, these have not

proceeded to application stage due to the advice given that the sites would not be considered demonstrably part of or adjacent to recognised named settlements.

- 6.2 Therefore, whilst the applicants may fulfil the qualifying criteria for construction of their own single plot affordable exception site, having considered the location of the proposed dwelling against the Council's adopted policy, it is not regarded as being in or adjacent to a recognised settlement for the reasons given in paragraph 6.1.11 above. The principle of the development is not acceptable.
- 6.3 Design, scale and character
- 6.3.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets. Policy MD12 of the SAMDev Plan sets out criteria by which the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved.
- 6.3.2 The proposed site does not exceed the 0.1 hectare limit imposed by the SPD Type and Affordability of Housing and the gross internal floor space accords with the 100m² limit allowing for any minor measuring inaccuracies. The dwelling would be a two storey, three bedroom property which does not attempt to include rooms that would be considered non-essential. The scale of the proposed dwelling and its plot are therefore commensurate with policy expectations for single plot affordable dwellings.
- 6.3.3 The design responds appropriately to local context in that a traditional brick and tile cottage is proposed with an external chimney, steep pitched roof and open timber porch. Similarly the detached garage is proposed as a simple, clean-lined outbuilding of a subservient scale, which would not visually compete with the main dwelling or its indicated cottage style features. Both structures are proposed in materials considered to be typical of the rural built environment. The area of hardstanding proposed which occupies the whole frontage space is potentially on the large side within the softer rural landscape, however it is indicated to be of gravel, a permeable covering.
- 6.4 Impact on the wider environment
- 6.4.1 As noted above in paragraph 6.6.11, the proposed development would break the existing visual containment of the buildings at Spring Vale Farm by projecting out into Grade 3 agricultural grazing land and that this would be likely to result in a more irregular and less viable field shape. Section 11 of the NPPF notes that local

authorities should seek to use areas of poorer quality land in preference to that of higher quality, and preferably previously developed land which as a re-use is more effective. In this case, the identified need for new residential development is not considered to outweigh the permanent loss of this section of a Grade 3 agricultural field, as the proposed development would contribute to the erosion of the open character of the surrounding landscape.

- 6.4.2 The site is level and currently screened from Occupation Lane by mature native hedging. The boundary is proposed as natural species hedgerow, therefore the plot would be suitably separated from the adjacent agricultural land. The development would be visible from the surrounding countryside, however it would likely be read in association with the existing buildings at Spring Vale Farm.
- 6.4.3 There would be a negligible impact on residential amenity in the vicinity due to the distances between the plot and the neighbouring dwellings. The farmhouse at Spring Vale Farm would be approximately 38m to the south west of the plot and the existing farm buildings would provide partial screening between them.

6.5 Access

6.5.1 The proposal for the site is to use the existing access onto Occupation Lane which is ungated. However although the view to the south from the access is adequate, the view to the north is constrained by a hedgeline. SC Highways note that domestic accesses have different requirements to agricultural accesses and should provide a view from a height of 1.05m (driver's eyeline), and that it is essential that emerging drivers have a view of approaching traffic and vice versa. However, this access also serves Denn Farm Caravan Site a large site extending to the west side of Denn Farm and therefore it is unlikely the type and scale of traffic likely to be generated by a single dwelling would impact on highway safety. Whilst the condition of Occupation Lane is not ideal in that is un made farm track, parking and turning could be satisfactorily achieved within the proposed site.

7.0 CONCLUSION

- 7.1 The site is in open countryside and not within or adjoining any recognisable named settlement. Consequently, and notwithstanding the fact that the applicants have been found to fulfil the local connections and housing need criteria for a designated affordable home, the principle of the proposed development is contrary to the National Planning Policy Framework, Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy, Policies MD3 and MD7a of the Shropshire Council Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.
- 7.2 By reason of its projection into an existing field, the development would erode the open character of the surrounding rural landscape and result in the permanent loss of Grade 3 agricultural land which would not appropriately conserve a natural asset. It would, therefore, be contrary to the National Planning Policy Framework, Policies

CS5, CS6, and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, and Policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development Plan.

- 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 National Planning Practice Guidance

LDF Core Strategy Policies:

- CS1 Strategic Approach
- CS5 Countryside And Green Belt
- CS6 Sustainable Design And Development Principles
- CS11 Type And Affordability Of Housing
- CS17 Environmental Networks
- CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:

- MD1 Scale and Distribution of development
- MD2 Sustainable Design
- MD7a Managing Housing Development In The Countryside
- MD12 Natural Environment

Supplementary Planning Documents (SPDs): Type And Affordability Of Housing

RELEVANT PLANNING HISTORY:

None relevant

11. Additional Information

<u>View details online: https://pa.shropshire.gov.uk/online-</u> applications/applicationDetails.do?activeTab=summary&keyVal=OQ7OVCTDLX100

List of Background Papers

17/02441/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages.

- o Design And Access Statement dated April 2017.
- Letter from Housing Enabling Officer dated 6th March 2017.
- Support Letter from Parish Council dated 13th January 2017.

Cabinet Member (Portfolio Holder) - Cllr R. Macey

Local Member - Cllr Robert Tindall

Appendices APPENDIX 1 – Informatives

APPENDIX 1

Informatives

- 1. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
- 2. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance: National Planning Policy Framework National Planning Practice Guidance

LDF Core Strategy Policies:

- CS1 Strategic Approach
- CS5 Countryside And Green Belt
- CS6 Sustainable Design And Development Principles
- CS11 Type And Affordability Of Housing
- CS17 Environmental Networks
- CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:

- MD1 Scale and Distribution of development
- MD2 Sustainable Design
- MD7a Managing Housing Development In The Countryside
- MD12 Natural Environment

Supplementary Planning Documents (SPDs): Type And Affordability Of Housing

3. Shropshire Council seeks to work proactively with applicants to secure developments that improve the economic, social and environmental conditions of an area in accordance with paragraph 187 of the National Planning Policy Framework. However in this case the application is not considered in principle to fulfil this objective having regard to relevant development plan policies and material planning considerations.

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Agenda Item 8



Committee and date

South Planning Committee

26 September 2017

Development Management Report

SCHEDULE OF APPEALS AND APPEAL DECISIONS AS AT COMMITTEE 26 SEPTEMBER 2017

LPA reference	16/05106/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs D Marpole
Proposal	Change of use of land for the siting of two holiday
	units and installation of a septic tank and associated
	drainage field (resubmission)
Location	Argoed Barn
	Argoed
	Clun
	Craven Arms
	Shropshire
	SY7 8NW
Date of appeal	23.05.17
Appeal method	Written Representations
Date site visit	04.07.17
Date of appeal decision	18.08.17
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/01050/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Timothy Grice
Proposal	Erection of a two storey side extension
Location	Manor Court
	Manor Farm Lane
	Bridgnorth
	WV16 5HG
Date of appeal	7/9/2017
Appeal method	Householder Fast track – written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference17/01146/FULAppeal againstRefusalCommittee or Del. DecisionDelegatedAppellantMr T HughesProposalErection of two-storey extension and porchLocationSecret CottageBritons LaneThe SmithiesBridgnorthWV16 4SZDate of appeal8.9.17Appeal methodHouseholder Fast Track – Written Reps		
Committee or Del. Decision Delegated Appellant Mr T Hughes Proposal Erection of two-storey extension and porch Location Secret Cottage Britons Lane The Smithies Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps	LPA reference	17/01146/FUL
Appellant Mr T Hughes Proposal Erection of two-storey extension and porch Location Secret Cottage Britons Lane The Smithies Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps	Appeal against	Refusal
Proposal Erection of two-storey extension and porch Location Secret Cottage Britons Lane The Smithies Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps	Committee or Del. Decision	Delegated
Location Secret Cottage Britons Lane The Smithies Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps	Appellant	Mr T Hughes
Britons Lane The Smithies Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps	Proposal	Erection of two-storey extension and porch
The Smithies Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps	Location	Secret Cottage
Bridgnorth WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps		Britons Lane
WV16 4SZ Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps		The Smithies
Date of appeal 8.9.17 Appeal method Householder Fast Track – Written Reps		Bridgnorth
Appeal method Householder Fast Track – Written Reps		WV16 4SZ
	Date of appeal	8.9.17
Date site visit	Appeal method	Householder Fast Track – Written Reps
Date site visit	Date site visit	
Date of appeal decision	Date of appeal decision	
Costs awarded	Costs awarded	
Appeal decision	Appeal decision	

16/02758/FUL
Refusal
Committee
Paul Harding
Change of use of land to accommodate 4 no. holiday
chalets with associated access and parking;
installation of package treatment plant
Proposed Holiday Chalets At Upper Marsh
Catherton
Shropshire
28.6.17
Written Representation
21.8.17
11.9.17
Dismissed

LPA reference	16/05421/CPL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr C Nedic
Proposal	Application for Lawful Development Certificate for the
	proposed siting of additional caravans for the
	purposes of human habitation as a person's sole or
	main place of residence
Location	Proposed Caravan Site To The West Of Cleobury
	Mortimer Golf Club
	Wyre Common
	Cleobury Mortimer
	Shropshire
	DY14 8HQ
Date of appeal	13/09/2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	16/04911/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs C Cahan
Proposal	Outline application for the erection of 2 No detached dwellings, together with 1 No pair of semi detached dwellings with associated garaging, car parking
	spaces, driveway and formation of new vehicular access
Location	Proposed Dwellings North Of
	Norbury
	Shropshire
Date of appeal	27.06.17
Appeal method	Written Representations
Date site visit	21.08.17
Date of appeal decision	13.09.2017
Costs awarded	
Appeal decision	Dismissed

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Appeal Decision

Site visit made on 4 July 2017

by Mike Worden BA (Hons) DipTP MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/L3245/W/17/3168969 Argoed Farm, Birches Mill Llanhedrick to Far End Junction Llysty, Argoed, Clun SY7 8NW

- 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 and Mrs D Marpole against the decision of Shropshire Council.
- The application Ref 16/05106/FUL, dated 4 November 2016, was refused by notice dated 6 January 2017.
- The development proposed is change of use of land for the siting of two holiday units (to comply with the legal definition of a caravan) to be used as tourist accommodation and installation of a septic tank and associated drainage field.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: a) the effect of the proposed development on the character and appearance of the surrounding area, having particular regard to its location in the Shropshire Hills Area of Outstanding Natural Beauty, and b) whether the proposal would result in a sustainable pattern of development.

Reasons

- 3. The appeal site is a large open field which lies close to a farm, Argoed Farm. The field is currently grassed and lies on the opposite side of the access track to the farm buildings, close to a narrow minor road. The farm buildings include two dwellings, and a workshop connected to a barrel making business. The dwelling closest to the appeal site is Argoed Barn. The field slopes down towards nearby woods.
- 4. The proposed development is to locate two wooden style holiday cabins on a plateau within this field, with a new vehicular access created from the farm access track. The cabins would face out towards the woods and the countryside beyond.

Character and appearance

5. The site lies within the Shropshire Hills Area of Outstanding Natural Beauty (the AONB). This part of the AONB is known as the Clun Forest. The landscape is typified by large open pasture fields with hedges and mature trees and small areas of woodland associated with the river valleys.

- 6. The field does not currently have any structures in it and the proposed cabins, the proposed accessway and proposed car parking areas would have a significant impact in the landscape. The field is open and typical of this part of the AONB.
- 7. Whilst I understand that the location and orientation of the cabins as proposed is to take advantage of the small plateau and the opportunities for the cabins to provide views out towards the woods and the Long Mynd, this would make the cabins very prominent in the landscape. At around 8m long, plus decking, 4m wide and around 2.5m high off a constructed pod base, the cabins would appear very conspicuous and alien.
- 8. The proposed cabins would not blend in with the tight collection of buildings at Argoed Farm and Argoed Barn since they would lie on the opposite side of the track to them. They would appear somewhat apart from the farm and would stand out in the landscape when viewed from beyond the site. The presence of potentially two parked cars next to the cabins would increase the prominence of the proposed development as a whole in the field and would increase the harmful effect.
- 9. Whilst views of the proposed development from the road may only be fleeting given the hedge lines, the site sits higher than the road where it joins the farm track and so would be visible to traffic which would be going quite slow at this point given the dip in and narrowness of the road. I consider therefore that the proposed development would be visible from the road and harmful in the landscape as seen from the road.
- 10. The proposed development would be extremely noticeable from the public footpath¹ which runs up the farm track and then runs in an easterly direction along the top of the field towards Argoed Wood. Thus I consider that the proposed development would be highly visible from a public place and would be very evident to those users of the path some of whom may have come to the area to specifically enjoy the landscape qualities of the AONB. The view from the public footpath down the slope towards Coppice Wood and the Long Mynd in the distance is valuable as part of the AONB and the proposed development would seriously harm that view.
- 11. I have considered whether if the appeal was to be allowed, a landscaping condition could be imposed to satisfactorily mitigate the harm caused to the character of the AONB. I have concluded that landscaping around the cabins would not fully mitigate the harm given the prominence of the site and the nature of the proposals in an otherwise open field. Landscaping would also not mitigate the loss of the currently open view towards the east enjoyed from the public footpath as it follows the farm track as it would tend to obstruct and affect views.
- 12. I conclude therefore that the proposed development would be harmful to the acknowledged landscape character of the AONB and therefore contrary to Policies CS5, CS16 and CS17 of the Council's Local Development Framework Core Strategy 2011(the Core Strategy) which, among other things, seek to protect the character of the countryside and the AONB. It would also be contrary to Policies MD11 and MD12 of the Shropshire Sites Allocation and Management of Development Plan 2015 (the SAMDev) which seek to ensure

¹ UN2 Clun

that new tourism facilities and other developments pay particular regard to landscape impact and mitigation within the AONB, and avoid harm to Shropshire's natural assets, the natural environment including the AONB. The other policies referred to me by the Council do not add to its case.

13. Furthermore in accordance with paragraph 115 of the National Planning Policy Framework (the Framework), I have afforded great weight to conserving the landscape and scenic beauty in the AONB and therefore conclude that the proposed development would be contrary to the Framework.

Sustainable pattern of development

- 14. The site lies around 4 miles from the nearest large settlement of Bishops Castle and around 3 miles from Clun which is smaller and has a limited range of facilities. I do not consider the site to be close to those settlements. The road which runs close to the site is a minor lane and the nearest bus route is along the main A488 road and the nearest bus stop around 2.3km away at Acton crossroads. The bus service is limited and the walk to the bus stop is mainly along the unpaved and unlit minor road. Whilst there are taxis which serve the area and which can be used to transport walkers, it is reasonable to assume therefore that users of the proposed cabins would need the use of a car during the course of their stay.
- 15. Policy CS16 of the Core Strategy provides a policy framework for considering proposals for tourism development. In particular it places emphasis on high quality visitor accommodation in accessible locations, and in rural areas, proposals must be close to or within settlements.
- 16. Policy MD11 of the SAMDev also relates to tourism facilities and visitor accommodation and confirms that development proposals should meet the requirements in Policy CS16.
- 17. The appeal site is not close to, or within, a settlement or is required as part of an existing tourism enterprise. It is in an attractive setting and a tranquil rural area. From my site visit and from the information supplied by the appellants, I could clearly see how holiday makers would find it an attractive place to stay given the landscape and opportunities for walking and biking nearby. However I consider that the site is not a sustainable location for the proposed development and would conflict with Policy CS16 of the Core Strategy.
- 18. I also consider that the proposal would conflict with Policy CS5 of the Core Strategy. That policy seeks to support economic development, including diversifying the rural economy but steers development to recognised and named settlements.

Planning Balance

- 19. The proposed development would bring some benefits to the local area since it would provide new accommodation for visitors to enjoy the Shropshire countryside. It would therefore provide some benefit to the Shropshire economy and would accord with principles of Policy CS13 which seeks to promote economic development, enterprise and employment. I also note the comments made by neighbours in support of the proposal.
- 20. However the site is not close to existing settlements, not in a sustainable location and would therefore be contrary to Policy CS16 of the Core Strategy.

The proposal does not involve the re-use of existing buildings or land and because of this and also that it does not respect the character of the countryside for the reasons explained, it would be contrary to paragraph 28 of the Framework which aims to promote a strong and sustainable rural economy.

- 21. There is disagreement between the parties as to whether the proposed development would represent farm diversification given that the appellants operate a non-farm business from the site. I have not been provided with sufficient evidence to determine whether or not there is a viable farming business operating from the site or how the proposed development would benefit and support the farming operation. I cannot therefore afford that issue any significant weight. In any case, in accordance with Policy CS5 of the Core Strategy, diversification schemes should maintain and enhance countryside character which I consider this proposal does not.
- 22. For the reasons explained above, I conclude that the proposed development would cause significant harm to the character and appearance of the surrounding area and the AONB, and in accordance with the Framework great weight must be attached to conserving this landscape which have the highest status of protection in relation to landscape and scenic beauty. The appeal site lies in a very important and unique part of the AONB. The open field where the development is proposed is typical of the landscape of the Clun Forest area of the AONB. The significant harm which would result strongly outweighs the limited benefits which the proposed development would bring.

Other Matters

23. The appeal site lies within the catchment of the River Clun, upstream of the River Clun Special Area of Conservation SAC. This is a European designated site which is afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended. From the information submitted I am satisfied that the Council has appropriately assessed the proposal in accordance with those habitat regulations and not identified any potential effect pathway by which the proposed development might impact upon the River Clun SAC.

Conclusion

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

Mike Worden

INSPECTOR



Appeal Decision

Site visit made on 21 August 2017

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government Decision date: 11 September 2017

Appeal Ref: APP/L3245/W/17/3173619 Land at Upper Marsh, Catherton Common, Cleobury Mortimer DY14 0JJ

- 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 Paul Harding against the decision of Shropshire Council.
- The application Ref 16/02758/FUL, dated 16 June 2016, was refused by notice dated 7 February 2017.
- The development proposed is the erection of 4 detached holiday caravans.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Revised plans were submitted with the appeal. These plans include a number of changes to the application submission, including the reorientation of the chalets and a reduction in their size from 4 bedrooms to 2 bedrooms. There is no evidence that the revised plans have been through any public consultation process and therefore I am not satisfied that interested parties would not be prejudiced by my consideration of them. Furthermore, the amendments are so significant, particularly with regard to the change in the size of the chalets, that it substantially alters the nature of the proposal. Accordingly, I have determined the appeal on the basis of the plans considered by the Council in their determination of the planning application.

Main Issues

3. The main issues are the whether the site would be a suitable location for tourist accommodation having regard to local and national policy; the effect of the proposal on the character and appearance of the area; and, the effect of the proposal on biodiversity, in particular the Catherton Common SSSI.

Reasons

Location

4. The appeal site forms part of a large verdant field located in the open countryside. The settlement of Hill Houses, which forms part of the Oreton, Farlow and Hill Houses Community Cluster as identified in the development plan, is located to the west of the site. However, the site is both physically and visually detached from the built form of the settlement and is clearly read as within the open countryside.

- 5. Policy CS5 of the Shropshire Council Adopted Core Strategy (CS) 2011 allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. The policy provides a list of particular development that it relates to including small-scale new economic development diversifying the rural economy, including farm diversification schemes. The indent below the second bullet to this policy states that for such development applicants will be required to demonstrate the need and benefit for the development proposed. It goes on to state that development will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate.
- 6. The nearest settlement to the site is Hill Houses. However, the appeal site is clearly not within the settlement. Furthermore, whilst the site lies adjacent to a forestry business operated by the appellant, there is no indication that the holiday accommodation would be linked to the existing business other than by proximity and ownership. The existing business and the proposal would have their own access points and would clearly be read and operate as two separate businesses with no interconnectivity between the two. Therefore, I do not accept the appellant's assertion that it is a diversification proposal. Accordingly, the proposal fails to fall within any of the development listed within Policy CS5.
- In rural areas, Policy CS13 of the CS recognises the importance of supporting rural enterprise and diversification of the economy, including green tourism. There is no evidence before me that the proposal would be 'green tourism'. Policy CS13 also states that development must accord with Policy CS5 of the CS.
- 8. Policy CS16 of the CS supports the development of high quality visitor accommodation in accessible locations served by a range of services and facilities. In rural areas, such proposals must be of an appropriate scale and character for their surroundings, be close to or within settlements, or an established and viable tourism enterprise where accommodation is required. Development must also accord with Policy CS5 of the CS.
- 9. From the evidence presented to me and the observations I made during my site visit, Hill Houses and the nearby settlements of Oreton and Farlow lack any services or facilities that would likely be utilised by visitors to the holiday chalets. Whilst there may be services and facilities within the wider area, these are not within reasonable walking distance of the site. Moreover, the roads between the site and the nearby settlements are generally narrow, have no pavement and are unlit. As such, they do not represent an attractive pedestrian route, particularly when it is dark. Consequently, it is reasonable to conclude that visitors would be highly reliant on the use of a private car to access services and facilities. Therefore, I do not find that the proposal would be in an accessible location as envisaged by Policy CS16.
- 10. There is no evidence to indicate that the proposal is required for an established and viable tourism enterprise. I note that there are visitor attractions in the area; however, these appear to be limited. Furthermore, whilst I acknowledge that there is a market for the proposal in the 'Heart of England', this is a very broad area. There is no evidence that there is any identified need for visitor accommodation within the local area, or that it could not be accommodated

within recognised settlements. Indeed, the evidence from local residents and Farlow Parish Council suggests there is an oversupply of holiday accommodation in the area.

- 11. Policy MD11 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 supports Policy CS5 of the CS. It permits tourism development where the proposal complements the character and qualities of the site's immediate surroundings. Whilst I address the character and appearance of the proposal later on in this decision, the requirements in Policies CS5 of the CS must also be met to satisfy Policy MD11.
- 12. The National Planning Policy Framework (the Framework) supports sustainable rural tourism that benefits businesses in rural areas, communities and visitors, and which respects the character of the countryside. This includes the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres. Given that the site lies within the open countryside and is not linked to an existing business and is not accessible to services and facilities it is not in an appropriate location.
- 13. I note that the Place Plan for Cleobury Mortimer and Surrounding Area seeks to reintroduce village services including a village shop, post office and pub. Visitors to the proposed chalets would likely use such facilities. However, there is no indication of how these facilities would be reintroduced or what the likelihood is of them opening if I allow the appeal. Furthermore, if such facilities were reintroduced, due to the small scale of the proposal, it would likely only have a limited positive effect on the local economy.
- 14. The appellant refers to policies contained within the South Shropshire Local Plan 2004. However, this plan no longer forms part of the development plan for Shropshire. Furthermore, the Good Practice Guide on Planning for Tourism (referred to as the Good Practice Guide for Tourism) no longer forms national guidance. As such I do not attribute any weight to these documents. In addition, the appellant also refers to the Shropshire Hills Area of Outstanding Natural Beauty Management Plan 2014-2019 (referred to as the AONB Management Plan). However, the appeal site is not located within the AONB and therefore I do not consider that it is relevant to the appeal proposal.
- 15. I find therefore that the proposal would not represent a suitable location for tourist accommodation and therefore fails to accord with Policies CS5, CS13 and CS16 of the CS and Policy MD11 of the SAMDev.

Character and Appearance

- 16. The appeal site forms part of an area that consists of open fields, common land and woodland interspersed with farmsteads and dwellings. The proposed chalets would be set out in a regimented pattern, which would be in marked contrast to the sporadic, organic development of the surrounding area.
- 17. There is an existing band of trees lining the road serving the site. These trees would assist in screening the chalets from view, particularly the two most northern units. Gaps in the tree line would still allow views of the two southern most units. I note that the appellant suggests a phasing scheme that would involve the introduction of the two northern units first and then then the second two would be erected in the following year. This would enable the band

of trees that have recently been planted behind the established tree line to grow and provide further screening. However, I am not satisfied that the newly planted trees would provide sufficient screening within such a short period of time, particularly during the months when the trees have no leaves.

- 18. Notwithstanding the visibility of the chalets from the adjacent road, the existing field has a very open, verdant character which makes an important contribution to the rural setting of the wider area including the adjacent open common land. The four units, the access track, areas of hardstanding and any domestic paraphernalia, such as clothes lines, waste bins, outdoor seating, etc. would introduce a form of urban development that would significantly diminish the rural setting.
- 19. I find therefore that the proposal would significantly harm the character and appearance of the area, contrary to Policies CS5, CS6, CS16 and CS17 of the CS and Policies MD2, MD11 and MD12 of the SAMDev, which, amongst other things, seek to protect the character of the area and enhance local distinctiveness. Furthermore, it would fail to accord with the design objectives of the Framework.

Biodiversity

- 20. The appeal site lies adjacent to the Catherton Common SSSI. An existing septic tank serves the adjacent forestry business and has a drainage field to the north east of the proposed chalets. The appellant confirms that there is no problem with the existing septic tank. However, he acknowledges that septic tanks in general produce an effluent that is rich in nutrients, particularly phosphates, which can be potentially harmful to sensitive areas such as SSSI's. The proposed treatment plant would serve the chalets and would intercept the discharge from the existing tank, therefore significantly reducing the level of phosphates released.
- 21. The Ecological Assessment, dated June 2016, carried out by Churton Ecology identifies that without the necessary precautions, there is potential for a significant negative impact on the Catherton Common SSSI. English Heritage concur with this view, raising concerns regarding the discharge from the proposal. In response to this, B M Evans Groundworks and Drainage confirm that the proposed treatment plan would produce an exceptionally clean effluent, stripping out nearly all phosphate. The treatment plant would be sited on the opposite side of the field from the boundary with the SSSI and any discharge would have to first travel through the width of the field before it reached the nearest watercourse.
- 22. It seems to me that the existing septic tank poses a far greater threat to the SSSI than the proposed treatment plant, although I note there is no evidence that it is causing any actual harm. Whilst the proposal would result in an increase in the amount of waste produced, the proposed treatment plant would nevertheless still produce significantly cleaner effluent than the existing.
- 23. Therefore, based on the evidence before me, I am satisfied that the proposal would result in a reduction in the amount of harmful waste produced and therefore I do not consider that it would have an adverse effect on the SSSI.
- 24. I have also had regard to the concerns raised regarding the recreational pressure on the SSSI. However, the proposal is only relatively small in scale

and therefore there would be limited increase in the use of the SSSI, which, as confirmed by the appellant, is publicly accessible.

- 25. Concern has also been raised regarding the effect of the proposal on Curlews. The Ecological Assessment identifies that any negative impact on birds is likely to be temporary and of negligible significance. If I was to allow the appeal, I am satisfied that appropriately worded conditions can adequately address these concerns.
- 26. I find therefore that the proposal would not significantly harm biodiversity and therefore find no conflict with Policies CS17 and CS18 of the CS which, amongst other things, seek to ensure that development protects Shropshire's environmental assets and avoids an adverse impact on water quality. In addition, it would comply with Policy MD12 of the SAMDev, which seeks to conserve, enhance and restore Shropshire's natural assets. Furthermore, it would accord with the Framework's objective of protecting the natural environment, in particular SSSI's.

Other Matters

27. The appellant refers to planning permission for 4 holiday yurts at Skelton Bank Farm¹. However, this was a farm diversification scheme that evidently supported the existing farming enterprise. Therefore I cannot draw any direct comparison with the appeal proposal before me, which, as I have found, is not a diversification scheme. In any event, I have determined the appeal on the basis of the evidence before me and the merits of the proposal.

Conclusion

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

Alexander Walker

INSPECTOR

¹ LPA Ref 14/00405/FUL

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Appeal Decision

Site visit made on 21 August 2017

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government Decision date: 13 September 2017

Appeal Ref: APP/L3245/W/17/3174136 Land adjacent to Appletree Cottage, Sunbank Cottage Junction to Junction North of Ashton House, Norbury, SY9 5DX

- 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 and Mrs C Cahan against the decision of Shropshire Council.
- The application Ref 16/04911/OUT, dated 25 October 2016, was refused by notice dated 22 December 2016.
- The development proposed is the erection of 2 No detached dwellings, together with 1 No pair of semi detached dwellings with associated garaging, car parking spaces, driveway and formation of new vehicular access.

Decision

1. The appeal is dismissed.

Procedural Matters

 The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on this basis. A site layout plan was submitted with the application with includes the siting of the dwellings. However, this is clearly labelled as indicative only and I have considered it as such, which the exception of the access details.

Main Issues

- 3. The main issues are as follows:
 - whether the proposal would accord with the Council's housing strategy in terms of its location;
 - the effect of the proposal on the character and appearance of the area, including with regard to its location within the Shropshire Hills Area of Outstanding Natural Beauty (AONB); and,
 - whether the proposal would preserve or enhance the character or appearance of the Norbury Conservation Area.

Reasons

Housing Strategy

4. 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. Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 identifies the villages of Norbury and Wentnor as a Community Cluster settlement.

- Policy S2.2(ix) of the SAMDev states that development by infilling and conversions may be acceptable on suitable sites within the Community Cluster of Norbury and Wentnor and identifies a housing guideline of 25 additional dwellings to be delivered over the pan period. The Council confirms that in 2013, 6 new dwellings were approved in Norbury.
- 6. There is a dispute between the parties as to whether or not the appeal site falls within the settlement of Norbury. There is no evidence before me of any settlement boundary for the village defined in the development plan. Norbury comprises a small collection of houses and farmsteads, interspersed with open spaces and trees. The built form of the village generally centres on the Church of All Saints and the village is framed with open fields. The appeal site comprises such an open field which is located to the north of the built form of the village, beyond which are further open fields. Whilst the site lies adjacent to dwellings to the south, it is viewed as distinctly separate from the village due to the extensive curtilages of these properties and is read as part of the village. Even if I considered that the site is located within the village, the proposal is evidently not a conversion scheme or an infill plot as it only has built development on one of its boundaries. Accordingly, it would fail to accord with Policy S2.2(ix).
- 7. Whilst the site is adjacent to the existing village, the explanatory text to Policy CS4 states that development in Community Clusters will be within the village, or on land that has been specifically allocated for development. As there is no evidence before me of sites being allocated for development within the Norbury and Wentnor Community Cluster, any new development shall therefore be within the village. Furthermore, it goes on to state that windfall development adjoining the village is not acceptable, unless it is an exception site for affordable housing or other development allowed under Policy CS5.
- 8. Policy CS5 allows new development in the open countryside 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. Policy MD7a of the SAMDev, supports Policy CS5 and 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. There is no indication that the proposal is an exception site for affordable housing or falls to be considered any of the development set out in Policy CS5. As the proposal is for open market dwellings outside the Community Cluster the proposal would fail to accord with Policies CS5 and MD7a.
- 9. The provision of 4 dwellings would make a positive contribution to the housing guidelines for the Community Cluster. However, given that the development plan has approximately 9 years remaining, there is no evidence to suggest that the remainder of the housing requirements for the Community Cluster could not be accommodated through conversion schemes or infill plots, as envisaged by Policy S2.2(ix) of the SAMDev.

10. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied by Polices CS4 and CS5 of the CS and Policies S2.2(ix), MD1 and MD7a of the SAMDev. Furthermore, it would fail to accord with the housing provision objectives of the Framework.

Character and appearance in the AONB

- 11. The appeal site is located within an attractive rural area within the Shropshire Hills AONB. Paragraph 115 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Policies CS17 of the CS and MD12 of the SAMDev reflect paragraph 115 and seek to ensure that development contributes to local distinctiveness including the special qualities of the AONB. In addition Policies CS6 of the CS and MD2 of the SAMDev seek to protect the natural environment and contribute to and respect locally distinctive or valued character.
- 12. The appeal site comprises a large field, close to the built form of the village. The field has a steep slope that rises from east to west, with the western part of the site being significantly higher than that to the east. Boundaries generally consist of mature hedging and trees, screening much of the site from public views. The boundary to the southwest of the site is a post and wire fence which enables distant views of the neighbouring dwellings to the south. Within the site it is open and appears as part of the undeveloped open land on the edge of the village. Overall, the site makes an important contribution to the open, rural character of the area.
- 13. Although the application is in outline, the dwellings would result in an extension of the settlement into the open countryside that would fail to protect or enhance the natural environment. Whilst the design and layout of the development may well accord with the neighbouring built form, subject to the reserved matters, this would not outweigh the significant harm the development of the site would cause to the rural character and appearance of the area.
- 14. Whilst the site benefits from mature landscaping along the boundaries this would not be sufficient to screen the dwellings, especially in winter when some of the deciduous trees would be less effective as screening. I accept that the plans submitted are indicative only. Nevertheless, the dwellings would be particularly apparent from within the site, at the entrance, and in views from neighbouring properties to the south, particular dwellings that would be located on the higher ground to the south west of the site. As a consequence, the proposal would be a visually intrusive form of development that would unacceptably detract from the rural character and appearance of the area and cause material harm to AONB interests.
- 15. Whilst the proposal is in outline form with only access to be determined at this stage, there is insufficient evidence before me to demonstrate that it would not significantly harm the character and appearance of the AONB and therefore would fail to conserve or enhance its landscape. As such, it would fail to comply with Policies CS6 and CS17 of the CS and Policies MD2 and MD12 of the SAMDev. Furthermore, it would fail to accord with the design objectives of the Framework.

Norbury Conservation Area

- 16. The appeal site lies within the Norbury CA. The Shropshire Council Conservation Area Appraisal (CAA) for Norbury identifies the village as having unique and attractive characteristics but nevertheless remains a working community with two major farms located within the settlement. A number of properties within the village are statutory listed buildings, perhaps the most prominent of which is the focal point of the village, the Church of All Saints, parts of which date back to the late 13th century. Properties are generally set back from the highway and have been sporadically developed over the years on varying plot shapes and sizes. Consequently, the open spaces, hedgerows and trees interspersed amongst the properties make a positive contribution to the spacious and rural character of the CA.
- 17. The Council raise concern with the site layout plan submitted with the application. However, notwithstanding the indicative drawings submitted with the application, the matters of appearance, landscaping, layout and scale have been reserved for future consideration. Therefore, the Council retains control over such matters to be determined as and when they are sought. Should a proposal be submitted at reserved matters stage that the Council considers would be unacceptable then they have the power to refuse it. The indicative layout does not form part of the outline permission and does not form any indication as to what would be acceptable at the reserved matters stage. It does not prejudice the Council's position with regard to the reserved matters.
- 18. I note that the Council's Conservation Officer states that visuals of the proposed development should have been submitted and that an application should have included such details. However, had the Council considered that the proposal ought not to be considered separately from the reserved matters regarding landscaping, appearance, layout and scale it was before them under Article 5(2) of the Town and Country (Development Management Procedure) (England) Order 2015 to notify the appellant within 1 month that they could not determine the application unless such details were submitted. There is no evidence that such a request was made. Accordingly, the application proceeded on the basis that the principle of the development of the site for two detached dwellings and one pair of semi-detached dwellings and access were the only matters to be considered.
- 19. The Council raise concern that the access to the site is over-engineered and the proposed bell-mouth entrance is inappropriate for a rural setting. There is no justification as to why the access is over engineered. If this is in reference to the access road leading to each of the properties then I consider this element of the proposal as indicative only and would be dependent upon the siting of the dwellings, which is a reserved matter. In respect of the bell-mouth entrance, whilst I agree that a traditional entrance for a rural setting would be more appropriate, I do not consider that it would result in any material harm to the character or appearance of the CA.
- 20. Whilst I acknowledge the sensitivity of the site in terms of the potential impact on the CA and nearby heritage assets, there is no substantive evidence demonstrating that, regardless of the indicative drawings, 4 dwellings on the appeal site would harm the character or appearance of the CA. Although the application is made in outline, I am satisfied that it would be possible to design a scheme that would preserve the character and appearance of the CA. As such, it would comply with Policy MD13 of the SAMDev, which seeks to ensure that development avoids harm or loss of significance to designated heritage

assets. Furthermore, it would accord with the design objectives of the Framework.

21. In their third reason for refusal, the Council also refer to Policy CS16 of the CS. However, this policy relates to tourism, cultural and leisure development. As the proposal is for residential development I do not consider it is relevant to this appeal.

Other Matters

- 22. The proposal would deliver additional housing, which would bring with it economic benefits in terms of construction industry employment. Furthermore, it would also have some social benefit by making a positive contribution to housing growth in Shropshire. Nevertheless, these benefits would only be limited.
- 23. The proposal would likely result in the occupants of the dwellings relying on the use of private cars to access services, facilities and employment opportunities. However, this would likely be the same for any residential development within the village that accorded with the development plan. Notwithstanding this, the proposal would result in environmental harm by way of failing to conserve or enhance the landscape of the AONB. The limited economic and social benefits would not outweigh the environmental harm. Consequently, I do not consider that it would be sustainable development.
- 24. The Council can demonstrate a five year supply of deliverable housing land. I accept that this is not a ceiling for housing growth. However, any additional growth above this must be in accordance with the development plan. I note the appellant's assertion that the Council has commenced a Strategic Land Availability Assessment and the site has been submitted for consideration. However, the details of the progress of the assessment are not before me and as such I can only attribute this matter limited weight.
- 25. I have had regard to the concerns raised regarding highway safety. However, based on the evidence before me and my own observations, I am satisfied that there would not be any severe harm to highway safety. I note that the local highways authority raise no objection to the proposed access.
- 26. I have also had regard to the concerns raised regarding the adequacy of the ecological report submitted with the application. However, I am satisfied that the necessary surveys were carried out in a competent manner and the proposed recommended mitigation to be appropriate. I note that the Council's ecologist raise no objection to the proposal.

Conclusion

27. I have found that the proposal would preserve the character and appearance of the CA. However, this is evidence of a lack of harm rather than a benefit in favour of the proposal. The location of the proposal would fail to accord with the Council's housing strategy as set out in the development plan and would fail to conserve or enhance the landscape of the AONB. For these reasons, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

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