

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

Date: Monday, 12 February 2024

Committee:
Southern Planning Committee

Date: Tuesday, 20 February 2024
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.

There will be some access to the meeting room for members of the press and public, but this will be limited. If you wish to attend the meeting please email democracy@shropshire.gov.uk to check that a seat will be available for you.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:

<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard
Assistant Director – Legal and Governance

Members of the Committee

David Evans (Chairman)
Nick Hignett (Vice Chairman)
Caroline Bagnall
Andy Boddington
Richard Huffer
Christian Lea
Hilary Luff
Nigel Lumby
Tony Parsons
Ed Potter
Robert Tindall

Substitute Members of the Committee

Joyce Barrow
Gwilym Butler
Rachel Connolly
Nigel Hartin
Pamela Moseley
Cecilia Motley
Claire Wild
Mark Williams
Paul Wynn

Your Committee Officer is:

Tim Ward Committee Officer

Tel: 01743 257713

Email: tim.ward@shropshire.gov.uk

AGENDA

1 **Apologies for Absence**

To receive any apologies for absence.

2 **Minutes** (Pages 1 - 6)

To confirm the minutes of the Southern Planning Committee meeting held on 16 January 2024

Contact Tim Ward (01743) 257713.

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 no later than 5.00 pm on Wednesday 14 February 2024

4 **Disclosable Pecuniary Interests**

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

5 **Former Bowling Green Ford Shrewsbury Shropshire (23/05174/FUL)** (Pages 7 - 24)

Erection of religious meeting hall (Class F2(b)) with associated access and parking

6 **Former Bowling Green Ford Shrewsbury Shropshire (23/05162/OUT)** (Pages 25 - 38)

Outline application for the erection of a single dwelling including reconfigured access

7 **Schedule of Appeals and Appeal Decisions** (Pages 39 - 86)

8 **Date of the Next Meeting**

To note that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 12 March in the Shrewsbury Room, Shirehall.

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Committee and Date

Southern Planning Committee

20 February 2024

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 16 January 2024

2.00 - 4.35 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Tim Ward / Ashley Kendrick

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk Tel: 01743 257713 / 01743 250893

Present

Councillors David Evans (Chairman), Nick Hignett (Vice Chairman), Caroline Bagnall, Andy Boddington, Richard Huffer, Christian Lea, Hilary Luff, Nigel Lumby, Tony Parsons and Ed Potter

46 Apologies for Absence

Apologies for absence had been received from Councillor Robert Tindall

47 Minutes

RESOLVED:

That the Minutes of the meeting of the Southern Planning Committee held on 12 December 2023 be approved as a correct record and signed by the Chairman.

48 Public Question Time

There were no public questions

49 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.

In respect of agenda item 8 Councillor David Evans declared that he was the local Member and that he would make a statement and then withdraw from the meeting and take no part in the debate or voting.

In respect of agenda item 8 Councillor Hilary Luff declared that she was the local Member and that she would withdraw from the meeting and take no part in the debate or voting.

50 Proposed Retail Unit To The South Of Sheet Road Ludlow Shropshire (23/04457/FUL)

The Principal Planner introduced the application which was an application for the erection of a retail unit and associated works and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout. The Principal Planner confirmed that members had conducted a site visit and drew members attention information set out in the schedule of late representations.

Councillor Vivienne Parry spoke as the local member in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Ian Kilby, (Agent), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members generally welcomed the proposals. Several Members commented that they felt some sort of pedestrian crossing was needed on Sheet Road. A Member expressed concern that on occasions that the car park was full, cars would park on the side of Sheet Road and suggested that some sort of TRO was needed to prevent this. Members suggested that delegated powers be given to Officers to investigate these matters further.

RESOLVED:

That in accordance with the officer recommendation planning permission be approved subject to the conditions set out in appendix 1 of the report with delegation given to officers to confirm the final wording of conditions and to include a condition requiring the inclusion of a pedestrian crossing across Sheet Road.

51 Hare And Hounds Cruckton Shrewsbury Shropshire SY5 8PW (23/04167/FUL)

The Senior Planning Officer introduced the application which was an application for a Cross Subsidy Housing Scheme comprising of 4 No terraced affordable dwellings, a pair of semi-detached affordable dwellings, and 4 No detached open market dwellings with double garages. and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout. The Principal Planner drew members attention to an amendment to the reasons for refusal which was set out in the schedule of late representations.

Councillor Allan Hodges spoke on behalf of Pontesbury Parish Council in favour of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Roger Evans, local Ward Councillor spoke in favour of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Martin Parrish, (Agent), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members agreed that the development fell within the settlement of Cruckton and that the harm caused by the open market housing was outweighed by the provision of the affordable housing.

RESOLVED:

That contrary to Officer recommendation planning permission be granted and that delegated authority be given to officers to agree a Section 106 agreement and to apply conditions as necessary

52 Charlton Arms Hotel Ludford Ludlow Shropshire SY8 1PJ (23/03457/FUL & 23/03458/LBC)

The Senior Planning Officer introduced the application which was an application for planning permission and listed building consent for the alteration of existing first floor terrace to create two additional guest bedrooms with additional guest terrace above. and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout.

Shaun Ward spoke in favour of the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Members generally welcomed the proposals which were sympathetic in design and would support the local visitor economy in Ludlow.

RESOLVED

That in accordance with the officer recommendation planning permission and listed building consent be granted subject to the conditions set out in appendix 1 of the report

53 Euro House Dale Street Craven Arms Shropshire SY7 9PA (23/04035/FUL)

The Planning Officer introduced the application which was an application for the extension of existing water culvert and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout. The Planning Officer read a statement from the Drainage and Flood Risk Manager which gave more details of the council policies.

Councillor David Evans, local Ward Councillor made a statement in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, and then left the room.

Members commented that they understood the reasons for the application but felt that they could not support it as it was against policy.

RESOLVED:

That in accordance with the officer recommendation planning permission be refused for the following reasons –

The proposed development contravenes the provisions of Shropshire Council's adopted Core Strategy 2011 policy CS18 (Sustainable Water Management), which seeks to prevent culverting of watercourses due to the potential for blockages and flooding grounds, Government guidance at paragraph 173 of the NPPF 2023 which seeks to ensure that planning applications do not lead to increased flood risk elsewhere and Policy 6 of the Council's Local Flood Risk Management Strategy which seeks to preserve watercourses in their natural state. The arguments advanced in respect of improved internal vehicular access/movement around the site, improved highway safety, no harm to biodiversity, the offer of a Unilateral Undertaking, and future redevelopment of the site do not outweigh the conflict with adopted planning policy in respect of watercourses. In addition, although the FRA identifies the flood risk to the existing site, it has not adequately considered the impacts of the proposed development in terms of flooding to third party land.

54 Proposed Residential Development Land To The East Of 5 Gravels Bank, Minsterley (23/04140/FUL)

The Principal Planner introduced the application which was an application for the erection of a new 3 - bedroom single dwelling with detached garage and new lane access and with reference to the drawings and photographs displayed, he drew Members' attention to the to the location and layout. The Principal Planner drew members attention to the information set out in the schedule of late representations.

The Solicitor read out a statement from Councillor Heather Kidd, local Ward Councillor in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Justin Shirra, (Agent), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members welcomed that additional conditions that had been agreed as they would reduce the impact of the building on the neighbourhood and would ensure that the remain available for local families in perpetuity.

RESOLVED:

That in accordance with the officer recommendation planning permission be approved subject to the conditions set out in appendix 1 to the report and the additional conditions listed below

1. A condition to ensure that the slab level of the proposed house is reduced by 2ft below the existing ground level to reduce the prominence of the property.
2. A condition to ensure that any planning permission is for the exclusive benefit of the applicant and their immediate family and that under the terms of any permission the property shall not subsequently be sold to any third party

55 Land To The North Of Small Heath Farmhouse Ashford Bank Claverley Shropshire (23/04577/VAR)

The Senior Planning Officer introduced the application which was an application for the variation of Condition No. 2 attached to planning permission 23/00967/FUL dated 12 October 2023 to amend plots 3 and 4 from one bed bungalows to two bed bungalows and add PV panels at all plots and with reference to the drawings and photographs displayed, he drew Members’ attention to the to the location and layout.

Councillor Richard Cotham spoke on behalf of Claverley Parish Council against the proposal in accordance with Shropshire Council’s Scheme for Public Speaking at Planning Committees

The Solicitor read out a statement from Councillor Colin Taylor, local Ward Councillor in accordance with Shropshire Council’s Scheme for Public Speaking at Planning Committees.

Scott Drummond, (Agent), spoke in support of the proposal in accordance with Shropshire Council’s Scheme for Public Speaking at Planning Committees.

A Member commented that the change from 1 to 2 bedroomed properties would give more flexible living arrangements for occupants. Members welcomed the inclusion of photovoltaic cells on all the proposed dwellings.

RESOLVED:

That in accordance with the officer recommendation, subject to the receipt of amended supporting documents to reflect the revised layout, delegated authority be given to Officers to draft conditions as set out in Appendix 1 and to secure a Deed of Variation to the existing Section 106 Agreement.

56 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 16 January 2024 be noted.

57 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 20 February 2024 , in the Shirehall

Signed (Chairman)

Date:

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Committee and date
Southern Planning Committee
20th February 2024

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 23/05174/FUL	Parish:	Ford
Proposal: Erection of religious meeting hall (Class F2(b)) with associated access and parking		
Site Address: Former Bowling Green Ford Shrewsbury Shropshire		
Applicant: Holyhead Road Trust		
Case Officer: Sara Jones	email: sara.jones@shropshire.gov.uk	

Grid Ref: 340989 - 313225

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

REPORT

1.0 THE PROPOSAL

- 1.1 This full planning application proposes the erection of a religious meeting hall (Class F2(b)) and associated access and parking on the site of a former bowling green to the west of Ford. The application site forms part of a larger site which benefits from permission under application 21/00475/OUT for the erection of two dwellings. A separate outline planning application is also currently under consideration for the erection of a single open market dwelling under application 23/05162/OUT and appears on the Committee Agenda.
- 1.2 The Planning Statement (PS) submitted with this application states that the Hall would be for the sole use of the local Plymouth Brethren Christian Church (PBCC) community for prayer and meetings for religious worship and bible readings; that it would be available for 2 services per week (one early Sunday morning and one late evening on Mondays) with occasional meetings between those times. The information also states that the services would include 25-35 persons (main hall being only 64sqm in size which limits the operational use of the building) with occasional meetings attended by smaller groups of 10 to 20 persons. The submitted drawings identify the provision of 18 on-site parking spaces and the information states that all attendees would park on site with lifts shared within family units and that there would be no outdoor activities or amplified music on site.
- 1.3 The access arrangements have been amended from that previously approved, with the access serving the proposed meeting hall only and being repositioned further to the south of the site.
- 1.4 The site is well screened from the main road and surrounding properties by existing vegetation, extends to an area of approximately 0.1 Hectares and has previously been used as a bowling green though not for several years.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated to the north of the A458 immediately to the west of the junction with a lane which runs north into the village of Ford. The site has existing detached dwellings to the north and east, the A458 to the south, the lane to the west across from which is a pub/restaurant (The Smokehouse). The Smokehouse is a substantial visually prominent Grade II listed former "Cross Gates Inn" which dates from 1724 with a likely earlier core.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected contrary to the Officer recommendation. The Area Manager in consultation with the chairman have considered this and have concluded that the objection raises material planning issues and should be determined by Committee.

4.0 Community Representations

Consultee Comment

SC Highways – No Objection, recommends conditions and informatives.

SC Conservation – No objection to the proposal, given the modest scale and simple but traditional form of the hall, set back position within the application site and hedging to the highway boundaries. Recommend that conditions are imposed to agree external materials and the colour finish of the external boarding, and comment that any proposed external signage should be minimal and appropriate within the wider context where details should also be agreed.

SC Ecology – No objection, recommend conditions and informatives.

SC Drainage – Observations: This is a Minor Development, and the site is not located within the SuDS Consultation Area. The LLFA will only provide standing advice on the development proposals to the LPA. The development is unlikely to significantly increase flood risk. Recommend informative.

Public Comments

Ford Parish Council - Objection

The Parish Council objects to this proposal as this site is in Open Countryside and the parish council wishes to remain as such in the Local Plan Review. The parish council is also concerned that as there is parking for 17 cars, this will result in safety issues onto the junction of the A458 in a location which already suffers from speeding traffic and dangerous driving e.g. dangerous overtaking.

Advertised and site notice displayed.

Two representations received raising concerns about:

- the potential impacts that the building and use of a religious meeting hall may have on the established Pub/Restaurant and entertainment venue for the local and wider communities.
- the proposed use fitting with that of a growing local community, that already suffer from a lack of local amenities. By restricting this sites usage to one particular (in this instance) religious group, would further restrict local community opportunities e.g. similar to the public house and entertainment venue directly across the road.
- the proposed users of the site do not agree with public house and entertainment venues.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Highways/Accessibility/Traffic Generation
Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is outside the settlement of Ford and indeed the status of the settlement of Ford in the adopted Development Plan is countryside. It is noted however that Ford is proposed to become a Hub settlement in the emerging plan, although the application site lies outside of the proposed settlement boundary. The site is therefore countryside for planning purposes.

6.1.2 Core Strategy Policy CS5 supports the provision of additional facilities to meet existing community need or identified needs arising from new developments in appropriate locations. Additionally, policy CS5 and CS6 requires that proposals likely to generate significant levels of traffic are located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised. Policy CS16 relates to tourism, culture and leisure development and supports new cultural and leisure facilities that are appropriate to their location and enhance and protect the existing offer within Shropshire.

6.1.3 The key issues in assessing the application are therefore the community need for the meeting hall in this location and whether there are any existing facilities/halls which are already accessible to meet this need and why these facilities would not be suitable. The supporting information submitted explains that the PBCC community congregate every Sunday in simple Meeting Rooms (Gospel Halls) to celebrate the Lord's Supper (Holy Communion) and to preach the Gospel and that they also gather for Bible readings and prayers in smaller meeting halls. It states that this proposed meeting hall would be required within the local community with 7 family groups within a close proximity and a further 2 family groups within 2 miles and 3 family groups within 3 miles. A total of 36 communicants.

6.1.4 An assessment of the existing facilities/halls submitted to support this application concludes that there are no available properties/facilities to meet this identified need. The statement explains the importance of small local meeting halls to the community which is centred around a group of families which are not currently served by a local meeting hall and that sites distant from Ford do not meet the needs of the local community. It also explains that as a global custom among the PBCC, they only use meeting halls owned by a charitable trust that is specifically designated for their purposes of religious worship. The applicant believes that church and meeting halls are a sacrosanct place where only religious activities should take place. As such the use of third-party buildings, such as the existing village hall in Ford would not be suitable or appropriate for this type of religious

activity. In addition, the strict timings of the applicant's prayer meetings may not be conducive to community buildings which are open and available for alternative uses throughout the week. Therefore, the use of the village hall in Ford on a rental basis is not acceptable from a religious/prayer viewpoint.

6.1.5 Additional information received explains that there are 63 families in and around Shrewsbury and that meeting halls are used by locally grouped family units. The community also utilise the existing Gospel Hall Holyhead Road, Bicton (opposite the Four Crosses Garage) when the wider PBCC community congregate but that small groups meet for bible readings and prayers (more personal meetings) in local meeting halls within the local community and that the smaller local buildings are more conducive to combining a young and old demographic and reduce travelling times. At present the following meeting rooms exist to serve the Shrewsbury area:

1. Bicton Church Hall – main meeting hall for Sunday worship
2. Barracks Lane, The Mount
3. Mytton Oak Road
4. Whitecroft at Weeping Cross

6.1.6 The information submitted states that the existing meeting halls are now at capacity for the specific needs of the groups attending and that the demand for these facilities are growing as the congregation is growing.

6.1.7 In this case there is an extant planning permission for the erection of two dwellings on the larger site of which this application forms part. It is noted that when the extant planning permission was considered by the Planning Committee it was resolved that the site, although clearly outside any settlement that is currently designated as suitable for new development within the adopted local plan, is surrounded by existing buildings and highways, and as such it would effectively form infill development within a cluster of properties around a road junction. Weight was also attached to the site having previously been developed as a bowling green with associated infrastructure (now removed) and being classed as previously developed land rather than a greenfield site. The redevelopment of previously developed land ahead of greenfield sites is a clear aspiration of both national planning guidance (NPPF) and adopted local plan policies. The extant planning permission is a material consideration of significant weight in the planning balance the principle of the redevelopment of the site having been established.

6.2 Siting, scale and design of structure

6.2.1 The site is not in an isolated or prominent location whereby its redevelopment as proposed would be a significant or unacceptable change. The proposed building would be modest in scale and have a simple traditional form which would not be inappropriate or appear overly strident in the street scene being set back from the highway junction behind an established boundary hedgerow.

- 6.2.2 As noted above the site lies opposite The Smokehouse a substantial visually prominent Grade II listed building, however the proposal would cause no harm to the setting of the Listed Building given its scale, design and position within the plot and in the light of the extant planning permission.
- 6.3 Highways/Accessibility/Traffic Generation
- 6.3.1 SC Highways has confirmed that the access arrangements are acceptable and that a satisfactory level of parking can be provided on site to ensure that there would be no unacceptable displacement parking on the public highway. The proposal would therefore be acceptable in highway safety terms.
- 6.3.2 The site lies within a relatively accessible location being positioned to the north of the A458 immediately to the west of the junction with a lane which runs north into the village of Ford. Whilst the information submitted with the application emphasizes the close-knit nature of the Plymouth Brethren Church Community and car sharing, it is noted that the site has footpath access to the centre of the Ford village via the A458 and there are bus service connections to Shrewsbury via services 74 (Tanat Valley Coaches) and X75 (Celtic Travel) which would provide alternative means of access. It is acknowledged that the proposal would generate more traffic movements than the single dwelling unit previously approved on this site however these movements would occur at specific times and are judged not to be so significant as to lead to a severe impact on the highway network in this location.
- 6.4 Amenity
- 6.4.1 The site is adjoined by an existing detached dwelling to the east, and as noted above there is an outline proposal for a detached dwelling to the north also under consideration. The site also forms part of the larger site which benefits from the extant outline planning permission for the erection of two dwellings.
- 6.4.2 The building is relatively modest in scale being single storey and having a footprint of some 119 square metres, has been designed with a simple ridged roof, having an eaves height of approximately 3 metres and a ridge height of approximately 5.6 metres. The facilities within the building would include a meeting hall, a modest kitchen, and toilet facilities. It would be positioned towards the northeast corner of the site and would be set some 7 metres off the mutual boundary with the existing dwelling to the east. The parking provision is located largely to the south of the site adjacent the A458 and to the west of the proposed building. It is also noted that the existing adjoining dwelling occupies a large plot and is set back a similar distance from the A458 and roughly parallel with the proposed building. As such, whilst the noise and disturbance generated by the proposed development, by virtue of the activity on the site would be greater than likely to be generated by a single dwellinghouse, this would be for limited periods only and unlikely to be significant given the nature of the use and the context of the site.

6.4.3 It is noted that concern has been raised with regards to the potential impacts that the building and use of a religious meeting hall may have on the established Pub/Restaurant and entertainment venue for the local and wider communities. In response to these concerns the applicant draws attention to the hours of use of the Hall being generally outside the normal busy operating hours of a public house premises and that the prayer meetings are located internally within the building. With respect to this it is acknowledged that planning decisions should ensure that new development can be effectively integrated with existing businesses, and they should not have unreasonable restrictions placed on them as a result of development permitted after they were established. In this instance however in the light of the context of the site adjoining the A458 and the separation distances involved, it is judged that the existing public house/restaurant is unlikely to have a significant adverse impact on the proposed development which would lead to unreasonable restrictions being placed upon them.

6.5 Other Matters

6.5.1 The application is supported by a Preliminary Ecological Appraisal which has been assessed by the SC Ecology Team who have confirmed that it is fit for purpose and agree that no further survey work is required. The SC Ecology Team recommend conditions and informatives to ensure that ecological interests are protected and that the site is enhanced for wildlife by providing additional roosting and nesting habitat.

6.5.2 The site lies within Flood Zone 1 (Low Probability of Flood Risk) and the SC Drainage Team raise no objection. The information submitted with the application states that foul water is to be connected to the public foul main sewer which runs along the A458 frontage. An indicative drainage connection is shown on Drawing 2317-PL101 rev B but the exact position of the connection would be required to be determined in association with Severn Trent. The surface water is proposed to be taken to soakaways under the parking spaces at the front of the building constructed in accordance with BRE 365 and current Building Regulation standards. An appropriate condition is recommended to ensure that the drainage details are submitted and approved by the Local Planning Authority.

7.0 CONCLUSION

7.1 Overall, it is considered that, the benefit that the provision of a local meeting hall would have to the local community and the extant planning permission for the redevelopment of the site are in combination material considerations of significant weight which weigh in favour of the development. The scale, design and appearance of the development would be appropriate for the location and there would be no highway safety issues raised. Given the nature of the use, the scale and design of the building, the layout of the development and the context of the site it is considered that there would be no significant adverse impact on neighbour amenity and that the use would not lead to unreasonable restrictions

being placed on the existing PH/restaurant located to the west of the site. Ecological interests and drainage matters can be adequately addressed through the imposition of suitable conditions. A condition is also recommended to link the use of the building to the local Plymouth Brethren religious community only as a meeting place for the mutual practice of their faith in order to avoid an intensification of the use and activity on the site in the interests of the amenity of the area and highway safety.

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

Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS16 - Tourism, Culture and Leisure
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD7B - General Management of Development in the Countryside
MD12 - Natural Environment
MD13 - Historic Environment

AGENDA ITEM

Southern Planning Committee - 20th February 2024

Former Bowling Green

MD16 - Mineral Safeguarding
Settlement: S16 - Shrewsbury

RELEVANT PLANNING HISTORY:

19/04500/FUL Change of use of land to a self-storage site comprising of 59No. storage units; formation of access and 2No. parking spaces NPW 15th March 2022

21/00475/OUT Outline application (access for consideration) for the erection of two (open market) dwellings GRANT 27th April 2022

23/05162/OUT Outline application for the erection of a single dwelling including reconfigured access Pending

SA/84/0891 Erection of 6 no. floodlights on 4 no. poles. PERCON 16th November 1984

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S4YAK8TDLUZ00>

List of Background Papers Planning application reference 23/05174/FUL and plans and supplementary reports.
Cabinet Member (Portfolio Holder) - Councillor Chris Schofield
Local Member Cllr Roger Evans
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

3. The building hereby approved shall be used as a meeting hall, Class F2 (b), for the sole use of the local Plymouth Brethren religious community as a meeting place for the mutual practice of their faith.

Reason: To avoid an intensification of the use and activity on the site in the interests of the amenity of the area and highway safety.

4. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats and birds as provided in Section 6.2 of the Preliminary Ecological Appraisal (Arbor Vitae, November 2023).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

5. The visibility splays shown on Visibility Plan Drawing No. 2317-PL-02 rev B shall be set out in accordance with the splay lines shown. Any retained hedge, or replacement hedge planting should be at least 1 metre behind the visibility splay lines. The visibility splays shall be fully implemented in accordance with the approved details prior to the use of the building being commenced and shall thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place, including any works of demolition, until a Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority, to include a community communication protocol and hours of construction/deliveries. The approved Statement shall be adhered to throughout the construction period.

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

7. Prior to the above ground works commencing samples and/or details of the roofing materials and the colour finish of the external walls (boarding); treatment of the boundaries/means of

enclosure, (position, height and appearance); and details of surfacing to the parking/turning areas; shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and retained for the lifetime of the development.

Reason: To ensure that the external appearance of the development is satisfactory and to protect the residential amenity of the area to accord with Policy CS6 of the Core Strategy.

8. No development shall take place until a scheme of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The details shall include full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways. The approved scheme shall be completed before the development is first brought into use.

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

9. a) No works associated with the development shall commence until a landscaping scheme, prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape - Recommendations, or its current version, has been submitted to and approved in writing by the Local Planning Authority (LPA). The approved scheme shall include details as relevant of ground preparation, planting pit specification and the trees and shrubs to be planted in association with the development (including species, locations or density and planting pattern, type of planting stock and size at planting), means of protection and support and measures for post-planting maintenance.

b) The approved landscaping scheme shall be implemented as specified and in full prior to the use of the building commencing. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the LPA becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: To ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

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

10. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
- A minimum of 2 artificial nests, of integrated brick design, suitable for swifts (swift bricks).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

For swift bricks: Bricks should be positioned 1) Out of direct sunlight 2) At the highest possible

position in the building's wall 3) In clusters of at least three 4) 50 to 100cm apart 5) Not directly above windows 6) With a clear flightpath to the entrance 7) North or east/west aspects preferred. (See <https://www.swift-conservation.org/Leaflet%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf> for more details).

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

11. Prior to the use hereby permitted being first brought in use the access and parking areas shall be laid out, hard surfaced and drained in accordance with Plan Drawing No.2317-PL-02 and retained for the lifetime of the development.

Reason: to ensure a satisfactory means of access and on-site parking provision to serve the site.

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

12. 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 lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

13. No signage associated with the development hereby approved shall be erected on site without the prior written consent of the local planning authority to an application on that behalf.

Reason: In the interests of the amenity of the area and highway safety.

14. No sound amplification equipment shall be used external to the approved building at any time.

Reason: To safeguard the amenities of the occupiers of the adjoining properties in accordance with CS6.

Informatives

In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

Shropshire Core Strategy
CS1 Strategic Approach
CS3 The Market Towns and Other Key Centres
CS4 Community Hubs and Clusters
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS16 Tourism, Culture and Leisure
CS17 Environmental Networks
CS18 Sustainable Water Management

The Site Allocations and Management of Development (SAMDev) Plan
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Delivery of Housing Development
MD7b General Management of Development in Countryside
MD12 Natural Environment
MD13 Historic Environment
MD16 Mineral Safeguarding
S16 Shrewsbury
Supplementary Planning Document on the Type and Affordability of Housing

Fees – Discharge of conditions

Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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.

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway.

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

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e., wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

Drainage informatives

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils SUDS Handbook which is available in the Related documents section on the councils website at:

<https://shropshire.gov.uk/drainage-andflooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should also be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally.

Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if infiltration techniques are not achievable.

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network.

If non permeable surfacing is used on the driveways and parking areas which slope towards the highway, a drainage system to intercept water prior to flowing on to the public highway must be installed.

If main foul sewer is not available for connection, British Water Flows and Loads: 4 should be used to determine the Population Equivalent (PE) for the proposed development and the sizing of the septic tank or package treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2.

Nesting birds

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings [or other suitable nesting habitat] should be carried out outside of the bird nesting season which runs from March to August inclusive.

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 or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and 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.

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>.

If during construction birds gain access to [any of] the building[s] and begin nesting, work must cease until the young birds have fledged.

General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

Landscaping informative

AGENDA ITEM

Southern Planning Committee - 20th February 2024

Former Bowling Green

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.



Committee and date
Southern Planning Committee
20th February 2024

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 23/05162/OUT	Parish:	Ford
Proposal: Outline application for the erection of a single dwelling including reconfigured access		
Site Address: Former Bowling Green Ford Shrewsbury Shropshire		
Applicant: Holyhead Road Trust		
Case Officer: Sara Jones	email: sara.jones@shropshire.gov.uk	

Grid Ref: 340989 - 313225



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Recommendation:- that delegated authority be given to Officers to draft conditions as set out

in Appendix 1 and to secure a Section 106 Agreement to secure the Affordable Housing contribution.

REPORT

1.0 THE PROPOSAL

- 1.1 This outline application proposes the erection of a single open market dwelling on the site of a former bowling green to the west of Ford. The application site forms part of a larger site which benefits from permission under application 21/00475/OUT for the erection of two dwellings, which was considered by the Planning Committee (South) in Sept 2021. A separate planning application is also currently under consideration for the erection of a religious meeting hall (Class F2(b)) under application 23/05174/FUL and appears on the Committee Agenda.
- 1.2 All matters other than the point of access are reserved for later approval. The access arrangements have been amended from that previously approved, with the access serving the proposed dwelling only and being repositioned further to the north of the site.
- 1.3 The site is well screened from the main road and surrounding properties by existing vegetation, extends to an area of approximately 0.1 Hectares and has previously been used as a bowling green though not for several years.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated to the north of the A458 immediately to the west of the junction with a lane which runs north into the village of Ford. The site has existing detached dwellings to the north and east, the A458 to the south, the lane to the west across from which is a pub/restaurant (The Smokehouse). The Smokehouse is a substantial visually prominent Grade II listed former "Crossgates Inn" which dates from 1724 with a likely earlier core.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected contrary to the Officer recommendation. The Area Manager in consultation with the chairman have considered this and have concluded that the application raises material planning issues and should be determined by Committee.

4.0 Community Representations

Consultee Comment

SC Highways – No Objection, recommends conditions and informatives.

SC Affordable Housing – No comment received.

SC Conservation – No objection to the proposal for a single dwelling as described in the submitted Design and Access Statement. Recommend conditions to agree external materials to ensure these are in context with the area and nearby dwellings.

SC Ecology – Recommend conditions and informatives.

SC Drainage – Observations: This is a Minor Development, and the site is not located within the SuDS Consultation Area. The LLFA will only provide standing advice on the development proposals to the LPA. The development is unlikely to significantly increase flood risk. Recommend informative.

Public Comments

Ford Parish Council - Objection

- The Parish Council objects to this proposal as this site is in Open Countryside and the parish council wishes to remain as such in the Local Plan Review.
- The parish council is also concerned that this is an outline rather than full application as the full detail of the proposal cannot be assessed and could change significantly.

Advertised and site notice displayed. No representations received.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site lies outside the settlement of Ford where open market housing would be contrary to the adopted development policies relevant to the location of housing including CS1, CS4, MD1. The proposal also does not meet the criteria for residential development that would be permitted in the countryside under policy CS5 and MD7a. As such the application should not be supported unless there are other material considerations which would outweigh the conflict with adopted policies.

6.1.2 In this case there is an extant planning permission for the erection of two dwellings on the larger site of which this application forms part. It is noted that when the extant planning permission was considered by the Planning Committee it was resolved that the site, although clearly outside any settlement that is currently

designated as suitable for new development within the adopted local plan, is surrounded by existing buildings and highways, and as such it would effectively form infill development within a cluster of properties around a road junction. Weight was also attached to the site having previously been developed as a bowling green with associated infrastructure (now removed) and being classed as previously developed land rather than a greenfield site. The redevelopment of previously developed land ahead of greenfield sites is a clear aspiration of both national planning guidance (NPPF) and adopted local plan policies. The extant planning permission is a material consideration of significant weight in the planning balance the principle of residential development of the site having been established.

6.2 Siting, scale and design of structure

6.2.1 As noted above the site is not in an isolated or prominent location whereby its development for residential use as proposed would be a significant or unacceptable change. The details of the proposed dwelling are reserved for future consideration but there is no reason to believe that a dwelling could not be designed to complement its surroundings. The landscaping of the site including the retention and planting of new trees/hedgerows would be one of the details required by the submission of a further reserved matters application.

6.3 Ecology

6.3.1 The application is supported by a Preliminary Ecological Appraisal which has been assessed by the SC Ecology Team who have confirmed that it is fit for purpose and agree that no further survey work is required. The SC Ecology Team recommend conditions and informatives to ensure that ecological interests are protected and that the site is enhanced for wildlife by providing additional roosting and nesting habitat.

6.4 Other Matters

6.4.1 The extant planning permission was considered acceptable despite being contrary to the Councils housing strategy due to a number of material considerations which included a financial contribution that had been secured towards affordable housing. Whilst the affordable housing contribution was not a policy requirement at the time, the Officers Report states that the applicant offered this in recognition that the site is not policy compliant and that there is an ongoing need to provide affordable housing across the county. The current application also includes a proportionate financial contribution, which would be based on 50% of the S106 previously approved scheme which proposed 2 dwellings (subject to today's prevailing rates).

6.4.2 As with the extant planning permission the application would result in the permanent loss of a bowling green although it has not been in use since 2015. It is understood that there has been no intervening use since its last use as a bowling green, however given the extant planning permission for residential development and the length of time that the site has been vacant, and its restricted size in terms of any other sporting or recreational use, as previously considered it is not clear that it meets the definition of an 'existing' open space or sports facility and as such

the development is not required to meet the tests as set out in the NPPF.

7.0 CONCLUSION

7.1 The extant planning permission is a material consideration of significant weight in the planning balance the principle of residential development of the site having been established. The development proposed would represent the redevelopment of a previously developed site, within an existing cluster of properties, which would contribute to new housing provision and provide a financial contribution to the pool of affordable housing within the county. The overall balance of considerations in this case weighs in favour of the development, outweighing the conflict with the Councils Housing strategy and 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

Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

AGENDA ITEM

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Former Bowling Green

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

MD16 - Mineral Safeguarding

Settlement: S16 - Shrewsbury

SPD Type and Affordability of Housing

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

19/04500/FUL Change of use of land to a self-storage site comprising of 59No. storage units; formation of access and 2No. parking spaces NPW 15th March 2022

21/00475/OUT Outline application (access for consideration) for the erection of two (open market) dwellings GRANT 27th April 2022

23/05174/FUL Erection of religious meeting hall (Class F2(b)) with associated access and parking Pending.

SA/84/0891 Erection of 6 no. floodlights on 4 no. poles. PERCON 16th November 1984

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S4YAD8TDLUB00>

List of Background Papers

Planning application reference 23/05162/OUT and plans and supplementary reports.

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Roger Evans

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure (England) Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

5. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats and birds as provided in Section 6.2 of the Preliminary Ecological Appraisal (Arbor Vitae, November 2023).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place, including any works of demolition, until a Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority, to include a community communication protocol and hours of construction/deliveries. The approved Statement shall be adhered to throughout the construction period.

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

7. No development shall take place until details for the parking and turning of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and

maintained at all times for that purpose.

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

8. No development shall take place until a scheme of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The details shall include full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways. The approved scheme shall be completed before the development is occupied.

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

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

9. The visibility splays shown on Visibility Plan Drawing No. 2317-PL-101 shall be set out in accordance with the splay lines shown. Any retained hedge, or replacement hedge planting shall be at least 1 metre behind the visibility splay lines. The visibility splays shall be fully implemented in accordance with the approved details prior to the dwelling being occupied and shall thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

10. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site before the dwelling hereby approved is first occupied:- A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 1 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).

- A minimum of 1 artificial nests, of integrated brick design, suitable for swifts (swift bricks). The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

For swift bricks: Bricks should be positioned 1) Out of direct sunlight 2) At the highest possible position in the buildings wall 3) In clusters of at least three 4) 50 to 100cm apart 5) Not directly above windows 6) With a clear flightpath to the entrance 7) North or east/west aspects preferred.

(See <https://www.swift-conservation.org/Leaflet%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf> for more details).

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

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

11. 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 lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or

sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

12. The development hereby approved shall be for a maximum of one dwelling only.

Reason: To reflect the character of the locality and pattern of existing development in accordance with the requirements of policies CS6 and MD2.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

Shropshire Core Strategy

CS1 Strategic Approach

CS3 The Market Towns and Other Key Centres

CS4 Community Hubs and Clusters

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS11 Type and Affordability of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

The Site Allocations and Management of Development (SAMDev) Plan

MD1 Scale and Distribution of Development

MD2 Sustainable Design

MD3 Delivery of Housing Development

MD7a Managing Housing Development in the Countryside

MD12 Natural Environment

MD13 Historic Environment

MD16 Mineral Safeguarding

S16 Shrewsbury

Supplementary Planning Document on the Type and Affordability of Housing

3. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning

Policy or Legislation.

4. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

5. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/applicationforms-and-charges/>

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.

6. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

7. No drainage to discharge to highway

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

8. Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e., wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway

(i.e. footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

9. Drainage informatives

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils SUDS Handbook which is available in the Related documents section on the councils website at:

<https://shropshire.gov.uk/drainage-andflooding/development-responsibility-andmaintenance/sustainable-drainage-systems-handbook/>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should also be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally.

Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if infiltration techniques are not achievable.

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365.

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

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network.

If non permeable surfacing is used on the driveways and parking areas which slope towards the highway, a drainage system to intercept water prior to flowing on to the public highway must be installed.

If main foul sewer is not available for connection, British Water Flows and Loads: 4 should be used to determine the Population Equivalent (PE) for the proposed development and the sizing of the septic tank or package treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2.

10. Nesting birds informative

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and 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.

If during construction birds gain access to any of the building and begin nesting, work must

cease until the young birds have fledged.

11. General site informative for wildlife protection

The European hedgehog is a Species of Principal Importance under section 41 of the 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required.

Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

12. Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

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Agenda Item 7

SCHEDULE OF APPEALS AS AT COMMITTEE 20TH FEBRUARY 2023

LPA reference	22/03984/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Andrew Timbrell
Proposal	Erection of an additional dwelling (plot 9) on land previously approved for residential dwellings (21/05984/FUL)
Location	Proposed Residential Development Land Off Park View Broseley Shropshire
Date of appeal	18.08.2023
Appeal method	Written Representations
Date site visit	14.11.2023
Date of appeal decision	05.01.2024
Costs awarded	N/A
Appeal decision	Allowed

LPA reference	22/05358/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Chris and Christine Stone
Proposal	Erection of a dwelling (outline application with all matters reserved)
Location	Land at Seiffen Barns, Marton
Date of appeal	09.01.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/03187/REF
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	J Gwilliam and Sons
Proposal	Erection of an agricultural occupancy restricted dwelling with a detached garage, installation of septic tank
Location	Proposed Agricultural Workers Dwelling East Of Upper Farm Guilden Down Shropshire
Date of appeal	26.9.2023
Appeal method	Hearing
Date site visit	06.12.2023
Date of appeal decision	10.01.2024
Costs awarded	n/a
Appeal decision	Dismissed

LPA reference	23/01556/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Broadley
Proposal	Change of use of land to mixed use for stabling of horses and as a residential caravan site for two gypsy families, each with two caravans including no more than one static caravan/mobile home, laying of hardstanding and erection of two amenity buildings
Location	Land East Of Knowle Bank Farm Priorslee Road Shifnal Shropshire
Date of appeal	15.01.2024
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/05112/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Tim Ralphs
Proposal	Demolition of existing garage, construction of a new three bedroom property and proposed car parking deck to Kyrewood.
Location	Kyrewood Clive Avenue Church Stretton Shropshire SY6 7BL
Date of appeal	31.07.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	17.01.2024
Costs awarded	Dismissed
Appeal decision	Allowed

LPA reference	22/05311/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs S Seal
Proposal	Erection of 1no dwelling including Garage and Parking
Location	Proposed Dwelling South Of 1 Discovery Close Craven Arms Shropshire
Date of appeal	13.09.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	23 January 2024
Costs awarded	
Appeal decision	Dismissed

LPA reference	22/05379/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	R & P Wood
Proposal	Erection of a detached single storey building containing 3No. starter units for employment (resubmission)
Location	Cosford Business Park Long Lane Neachley Shifnal
Date of appeal	25.01.2024
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/01721/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mark Meadows
Proposal	Erection of single storey side extension
Location	Oak Fields Quatford Bridgnorth Shropshire WV15 6QJ
Date of appeal	13.09.2023
Appeal method	Written representations
Date site visit	03.01.2024
Date of appeal decision	30/01/2024
Costs awarded	
Appeal decision	Dismissed

LPA reference	20/07075/ENF
Appeal against	Enforcement Notice
Committee or Del. Decision	N/A
Appellant	Alexander Johnson
Proposal	Appeal against material change of use of land from agricultural use to a mixed use of agricultural and use as a caravan site for residential use including the stationing of two static caravans and three lorry back storage units all in connection and associated with the use of The Land as a caravan site for residential purposes
Location	Land To The South East Of Stitt Cottage Ratlinghope Shropshire
Date of appeal	24.05.2023
Appeal method	Written representations
Date site visit	12.12.2023
Date of appeal decision	01.02.2024
Costs awarded	
Appeal decision	Dismissed subject to variation

LPA reference	22/02676/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	RDS Kent Ltd
Proposal	Conversion of joinery workshop/former school into dwelling (revised scheme)
Location	The Old National Boys School Station Street Bishops Castle Shropshire SY9 5DD
Date of appeal	14.08.2023
Appeal method	Written Representatins
Date site visit	
Date of appeal decision	Dismissed
Costs awarded	
Appeal decision	

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

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Appeal Decision

Site visit made on 14 November 2023

by **N Bromley BA Hons DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 January 2024

Appeal Ref: APP/L3245/W/23/3321292

Land adjacent Park View, Broseley, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by DBA Homes (Broseley) Ltd, against the decision of Shropshire Council.
 - The application Ref 22/03984/FUL, dated 26 August 2022, was refused by notice dated 20 December 2022.
 - The development proposed is described as *"The erection of an additional dwelling on land off Park View, Broseley, the subject of consent no. 21-05984-FUL; the realignment of the boundary to plot 1 previously approved under 21-05984-FUL; the diversion of an existing public footpath; and the construction of a new access road to serve the proposed allotments to the rear of nos. 37-40 Park View."*
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of an additional dwelling (plot 9) on land previously approved for residential development (21/05984/FUL) at land adjacent Park View, Broseley, Shropshire, in accordance with the terms of the application, Ref 22/03984/FUL, dated 26 August 2022, subject to the conditions set out in the attached schedule to this decision.

Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. The description of development in the fourth bullet point of the above header is taken from the application form. However, the Council has described it on the decision notice as "Erection of an additional dwelling (plot 9) on land previously approved for residential dwellings (21/05984/FUL)." The appellant has also included this revised description on the appeal form. The revised description is a more precise and clear description, which removes wording that is not a description of development. Therefore, I have determined the appeal on this basis notwithstanding the description in the banner heading.

Main Issues

4. The main issues are the effect of the proposed development on:
 - i. the character and appearance of the area; and

- ii. the living conditions of the neighbouring occupiers of 42 Park View, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site is an undeveloped piece of land that forms part of a residential development of eight detached dwellings. The proposed development is for an additional detached dwelling on the land to the side of plot 1 of the original planning permission, reference 21/05984/FUL.
6. The proposed dwelling would have the same house type design as a number of the recently constructed dwellings in the cul-de-sac, which is characterised by large, detached houses set within significant plots. The entrance to the cul-de-sac is set back from Park View and results in areas of informal open space at the entrance of the cul-de-sac, which contribute to the open and spacious setting of the development.
7. The parties have referred to a previous appeal decision on the site (ref APP/L3245/W/15/3006489) for outline planning permission for a residential development of six detached houses. In particular, comments made by that Inspector to the southwest corner of the site and it being a notable undeveloped area. The Council set out that weight should be given to the previous Inspectors comments because the proposed development would now result in this key element of the development being unacceptably eroded and its contribution to providing a high-quality sustainable development is effectively lost. However, since the Inspector's previous observations on the outline proposal, the constructed development has evolved and I need to consider the proposal on its own merits and in light of current circumstances
8. The southwest corner of the site creates an area of informal open space adjacent to the public right of way. The area was proposed to be landscaped with trees and wildflower, as part of the previously approved scheme for the residential development. There is a further area of informal open space opposite, and the two areas create a buffer between the new residential development and the existing built development on Park View.
9. I acknowledge that the proposed additional dwelling would undoubtedly reduce the spacious appearance of the wider development, particularly at the entrance to the cul-de-sac. Nevertheless, a generous amount of informal open space at the entrance to the cul-de-sac would still be achieved and the spacious and pleasant character of the street scene would be maintained.
10. The proposed dwelling, due to its position and appearance, which would be similar to the other existing dwellings within the cul-de-sac, would comfortably assimilate into the residential development and would not be harmful to the overall character and appearance of the area.
11. Whilst the proposal would result in the loss of some soft landscaping in this part of the development, a landscaping scheme has been submitted which demonstrates that an acceptable amount of planting can nevertheless be incorporated into the development.
12. For the reasons outlined above, the proposed development would not be unacceptably harmful to the character and appearance of the area. Therefore,

the proposal would accord with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev), which together and amongst other things, requires development to be of a high quality design that responds appropriately to the form and layout of existing development.

Living conditions

13. The appeal site is located beyond the rear boundary of 42 Park View (No 42). No 42 fronts the road and is set on a lower ground level than the appeal site. The rear elevation and the habitable windows of No 42 would have an outlook towards the side wall of the proposed dwelling. However, the orientation of No 42, on an oblique angle, would not result in a direct outlook towards the side gable of the proposed dwelling.
14. Furthermore, while I acknowledge that the proposed dwelling would be two storeys in height and occupy a higher ground level, it would have a hipped roof that slopes away from the rear boundary of No 42. The footprint of the proposed dwelling would also be set off the boundary with No 42 by an adequate distance and the juxtaposition between the two buildings would not result in a significant overbearing effect on the outlook from the rear windows and garden of No 42.
15. Consequently, I conclude on this main issue that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 42 Park View, with particular regard to outlook. As such, the proposed development would accord with Policy CS6 of the CS, and Policy MD2 of the SAMDev, which together, and amongst other things, seek to ensure that new development respects the living conditions of current and future occupiers.

Planning Obligation

16. The Community Infrastructure Levy (CIL) regulation 122 makes it clear that a planning obligation can be taken into account where it meets the following tests. These are that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
17. The S106 would secure an additional Affordable Housing (AH) contribution of £17,325 towards the offsite provision of AH, to that previously secured by the planning permission for 8 dwellings, so as to comply with policies CS9 and CS11 of the CS. The appellant has provided a Unilateral Undertaking (UU) for the payment of this sum and the Council have confirmed that the UU would secure the required financial contribution towards the offsite provision of AH.
18. Therefore, for the reasons given, the UU would comply with paragraph 57 of the Framework, and regulation 122 and I can take it into account in my decision.

Other Matters

19. I acknowledge that Broseley Town Council have objected to the proposal and in doing so raised concerns about the housing need for the proposed development, and in particular large market properties. Concerns have also been raised about the rerouting of a footpath due to health and safety issues

for members of the public trying to access the footpath. Increased traffic generation has also been raised as an objection. These factors are not in dispute between the main parties and were addressed in the Delegated Report, with the Council concluding that there would be no material harm in these regards. No substantiated evidence has been submitted that leads me to any different view. Given my findings above, and the suggested conditions by the Council, I have found no justification to dismiss the appeal.

Conditions

20. I have had regard to conditions suggested by the Council, as well as to the Framework and national Planning Practice Guidance (PPG). In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty.
21. To protect the character and appearance of the area I have imposed conditions requiring approval of external surface materials and the implementation of a landscaping scheme. To protect the living conditions of neighbouring occupiers I have imposed conditions requiring the use of obscured glass in the first-floor windows in the side (south) elevation. Likewise, conditions to secure a construction method statement and a restriction on construction hours are necessary to protect the living conditions of neighbouring occupants from noise and disturbance during the construction phases.
22. A condition to secure tree protection measures is required to safeguard existing trees during the construction phases and a condition which secures a scheme for the disposal of surface water and foul sewage is necessary to ensure the appropriate management of water and foul sewage disposal. The future parking provision for the development also needs to be secured by a condition to ensure satisfactory parking levels and prevent on street parking problems.
23. I have not imposed a condition requiring the foundations of the dwelling to include a ventilated void beneath the floor slab because I have not been provided with a justification as to why this is reasonable and necessary. Likewise, I have not included the suggested condition for the submission of a scheme to divert the right of way because this is covered by separate legislation and a procedure.
24. Conditions 3-5 relate to pre-commencement activities. In each case I am satisfied that the conditions are necessary to make the development acceptable in planning terms and that it would have otherwise been necessary to refuse planning permission. The appellant has provided written agreement to the terms of these conditions.

Conclusion

25. The proposed development would accord with the development plan, and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, numbered: 21-066-11; 21-066-12; 21-066-13; 22-003-P-01 Rev D; and 22-003-P-02 Rev B.
- 3) Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include details of:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - h) a Construction Traffic Management Plan.

The approved Construction Method Statement shall be implemented as approved before development begins and be maintained throughout the duration of the construction works period.

- 4) Prior to the commencement of the development hereby approved, a scheme of surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved scheme prior to the occupation of the development.
- 5) Prior to the commencement of the development hereby approved, the Tree Protection measures, as detailed on the approved Tree Protection Plan 22-003-P-02 Rev B, shall be fully implemented on the site. The approved tree protection measures shall thereafter be maintained in a satisfactory condition throughout the duration of the development works and until all equipment, machinery and surplus materials have been removed from the site.
- 6) The approved landscaping scheme shall be implemented as specified on the approved Planting Plan (22-003-P-01 Rev D) and completed prior to the occupation of the development hereby approved. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.
- 7) The development hereby approved shall not be occupied until the garage and parking areas, as shown on the approved plans, have been provided and properly

laid out, hard surfaced and drained. The garage and parking spaces shall be permanently retained as such thereafter.

8) Prior to the occupation of the development hereby approved, the first-floor windows in the side (south) elevation, as shown on drawing number 21-066-13, shall be obscure glazed with top hung opening lights only. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

9) No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays, public and bank holidays.

10) No development above slab level shall commence until samples of all proposed external facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.



Appeal Decision

Hearing held on 6 December 2023

Site visit made on 6 December 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/L3245/W/23/3321853

J Gwilliam & Sons, Upper Farm, Guilden Down, Clun, Craven Arms, Shropshire SY7 8NZ

- 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 Shenton Gwilliam of J Gwilliam and Sons against the decision of Shropshire Council.
 - The application Ref 22/03988/FUL, dated 24 August 2022, was refused by notice dated 26 January 2023.
 - The development proposed is erection of an agricultural occupancy restricted dwelling with a detached garage, installation of septic tank.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity on the site location, the address above is taken from the signed statement of common ground.
3. Subsequent to the hearing event, a revised National Planning Policy Framework (Framework) was published on 19 December 2023. Insofar as it is relevant to the matters at hand in this appeal, the Framework is consistent with the previous iteration. References to the Framework in this decision are to the new paragraph numbers.
4. The site is located within the River Clun catchment which feeds into the River Clun Special Area of Conservation (SAC). SACs are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The potential impact on the SAC did not form a reason for refusal but was raised as an issue in the Council's appeal statement. In the event that the appeal was to be allowed, the Habitats Regulations would require that I undertake an Appropriate Assessment in relation to the effect of the proposed development on the integrity of the SAC. I return to this under Other Matters.
5. Natural England (NE) were consulted with respect to potential impacts on the SAC. The hearing was adjourned to allow the main parties to comment in the event of a NE response being received. No NE response was received after the deadline passed. Therefore, the hearing was closed in writing on 21 December 2023.

Main Issue

6. The main issue is whether there is an essential need for an additional rural worker to live permanently at the appeal site in the countryside, having regard to:
- the functional need of the farming enterprise;
 - the suitability and availability of any alternative accommodation; and
 - whether the proposal is acceptable with respect to affordable housing.

Reasons

7. The appellant lives in the farmhouse at the appeal site and manages the farm. His parents are retired but also live on the farm in converted holiday accommodation¹. That house is restricted by an agricultural occupancy condition. The appeal scheme is for a new dwelling to accommodate a rural worker (assistant farm manager) to assist the appellant with the day to day running of the farm. This is currently intended for the appellant's son.
8. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015) (the SAMDev Plan) permits essential rural worker dwellings in the countryside where certain criteria are met. Therefore, I now consider the proposal in light of each of these.

Functional Need

9. The farm enterprise comprises three main areas: arable, rearing sheep and poultry. The main parties agree that the labour requirement for the farm amounts to an equivalent of 8.78 full time workers. The farm employs three full time staff, including the appellant and his son, and one part time member of staff. In addition, seasonal workers are employed at peak times.
10. The main component of the labour requirement is the 180,000 to 200,000 bird broiler unit which produces circa 1.4 million chickens per year, within four poultry barns. This requires daily checks of the poultry sheds at three intervals during the day. The first of these can take two to three hours and the remainder, an hour each, amounting to a not insignificant time commitment every day.
11. There is a high degree of automation controlling the temperature, food and water supplies in the barns. This includes alarms that are activated if there is a problem with any of these systems. Although connected to staff mobile phones, a failure to respond rapidly enough could lead to animal welfare issues. This is due to raised stress levels for the birds where the heating, food or water supplies are interrupted. Increased stress is also said to make the birds more susceptible to infection with implications for productivity.
12. Response to these alarms is particularly time critical on hot days in summer months when a failure of the ventilation system could quickly lead to harmful temperatures for the birds. However, a rapid response is also important in cold weather when there are young chicks.

¹ Granted November 2003 (Ref SS/1/03/14772/F)

13. Accordingly, there is a need for a suitably trained member of staff to be available to respond to an issue with any of these systems, 24 hours a day, when the barns are in use. The barns are only empty for approximately one week in every seven. Therefore, the need for 24 hour monitoring is for the majority of the year.
14. The appellant advised that it is not unusual for the alarms to be raised and require attendance on two to three nights per week. Furthermore, approximately every 7 weeks there is a need for one member of staff to work several nights in a row to oversee the loading of birds onto lorries to leave the farm. This can generally be carried out by either the appellant or his son, but in addition to the daily work commitments this results in particularly long working hours on those occasions. Therefore, it is reasonable for the appellant to share the responsibility of the 24 hour a day presence on site with another suitably skilled worker in order to make his role manageable.
15. Whilst shift work could ensure there is a worker other than the appellant present on site at all times, it would not be reasonable for a trained poultry worker to be present on site throughout the night with no duties other than awaiting an emergency. Moreover, this would not be an efficient use of resources and would not reasonably justify employing more staff to meet the need for night time cover.
16. Additional work commitments include the rearing of 350 ewes. Outside of the intensity of lambing season, ewes still require daily checks and the ability of a staff member to respond in the event of an emergency. The arable farming business is another, smaller part of the farming enterprise that requires farm manager or assistant farm manager input during the day. Furthermore, general farm management and maintenance is said to be in addition to the 8.78 labour requirement. Consequently, this adds to the working hours of the appellant and his son as manager and assistant farm manager, respectively.
17. Accordingly, the work demands of the enterprise amount to a functional need for an additional full-time worker to be permanently resident at Upper Farm. This is necessary to farm in a responsible manner, maintaining animal welfare and that of the farm workers.
18. In coming to this view, I am mindful that at the time of granting planning permission for the change of use of the holiday accommodation to an occupancy restricted dwelling, the Council accepted that there was a need for two rural workers to live on the farm. Moreover, since that time the main parties agree that the farm has expanded with the addition of the poultry rearing enterprise. Notwithstanding the use of technology in managing the poultry barns and for security purposes, the expanded enterprise and its 24 hour nature further supports the justification of the current functional need for two workers to reside on site.
19. The appellant's son is currently living circa 10 minutes away from the site. However, even this relatively short commuting time could result in undue delay in responding to the alarm system, particularly in inclement weather, resulting in unacceptable risks to livestock.

Alternative Accommodation

20. From the evidence before me and my observations on site, all existing farm buildings appeared to be fully utilised, including the stable used to house poorly stock and orphaned lambs. Therefore, I am not persuaded that any would be suitable and available for conversion to residential accommodation.
21. The appellant's farmhouse contains three bedrooms, one of which is unoccupied. Albeit that room is said to be small with a single bed. Consequently, it would be unlikely to provide satisfactory living accommodation for an adult rural worker, particularly in the event that it was for a non-family member.
22. The house currently occupied by the appellant's parents would likely be suitable to accommodate a rural worker. Nevertheless, it is not currently available for that purpose and there is no evidence before me to suggest that it is likely to become available in the short to medium term.
23. However, no robust evidence was provided of a search of suitable and available alternative properties in the vicinity. At the hearing reference was made to a recent property search conducted by the Council using the Rightmove website. Whilst anecdotal evidence, this identified a barn conversion currently for sale at Guilden Down with an asking price that the appellant advised is below their budget for the appeal scheme. Full details of that property are not before me. However, the appellant was aware of it, and it was pointed out to me on the site visit, located in a courtyard arrangement close to the existing farmhouse.
24. Given the proximity of that property to the appeal farm it would appear well located to enable a rural worker to respond quickly to events on the farm during the night. It is unclear why the size of that property and its proximity to other dwellings would preclude its suitability for rural worker accommodation, even for a suitably qualified non-family assistant farm manager. I see no reason to conclude that noise from night time comings and goings by a rural worker would be any more intrusive to neighbours than might occur from any other worker that operates on-call or involves shift work.
25. Without substantive evidence to the contrary, this leads me to conclude that it is likely that there are suitable alternative properties that could meet the functional need.

Affordable Housing

26. The proposed dwelling of 106sqm exceeds the recommended size for a secondary rural worker dwelling of 100sqm as set out in the Council's Supplementary Planning Document Type and Affordability of Housing (September 2012) (SPD). The additional 6sqm is explained with regard to the need for an office area, as well as a utility room and downstairs bathroom in order for the occupant to remove dirty farm clothing and wash before entering the main living area of the house. Having regard to the proposed floor plan (Ref SK01 A), that appears to be a reasonable justification for an additional rural worker dwelling here. Moreover, the proposed layout of the remainder of the ground floor does not appear excessive in comprising a lobby, kitchen and living room.
27. The proposed floor plan shows two bedrooms within the roof space which also do not appear excessively large. Although there may be scope to increase the

useable floorspace within the roof in future, such internal alterations do not form part of the appeal scheme. In any event, no substantive evidence indicates that such alterations would result in the floorspace being excessive for a rural worker and their family, or as an affordable home in the future.

28. Policy MD7a part 2.c. of the SamDev Plan requires that proposals for an additional rural worker dwelling are subject to an occupancy condition. In the event that the appeal was allowed, such a condition could reasonably be imposed here. Accordingly, following implementation, any future change of use to general affordable housing would require an application for removal of that condition. At that stage, a restriction to retain its future use as affordable housing, or payment of an appropriate affordable housing contribution, could be sought in line with Policy MD7a part 2.c. This was not disputed by the Council.
29. Therefore, the proposed dwelling size would be acceptable having regard to the SPD and its potential future use as affordable housing.

Overall Findings on Essential Need

30. A functional need for an additional rural worker to live on site has been demonstrated. The proposal is also acceptable with regard to its size. Furthermore, a suitable condition could satisfactorily address its future affordable housing use or contributions to off site affordable housing.
31. However, it has not been demonstrated that there is an absence of suitable and available alternative accommodation that could meet this need. As such, the proposal would conflict with SAMDev Plan Policy MD7a part 2.a. in respect of availability of alternatives. Similarly, the likely availability of alternative accommodation undermines the justification of the need for an agricultural dwelling in the countryside, as required by Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) (Core Strategy).
32. Further, whether or not the proposal amounts to an isolated home, due to the likely presence of alternative accommodation it would not satisfy paragraph 84.a) of the Framework in respect of there being an essential need.

Other Matters

33. The appeal site is located within the Shropshire Hills Area of Outstanding Natural Beauty (now known as a National Landscape). Given the location of the proposed dwelling in proximity to other buildings and its modest scale, it would not harm the landscape or scenic beauty of the National Landscape. This is a neutral factor in the balance.
34. There are a number of grade II listed buildings in the vicinity of the appeal site. This includes the Barn adjoining Upper Farmhouse to West; Guilden Down Farmhouse; No. 5 and attached former Cowhouse to South; and Cowhouse approximately 5 metres to South of Guilden Down Farmhouse. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed buildings or their setting, or any features of special architectural or historic interest which they possess.

35. However, there is nothing to indicate that the appeal site has a particular historic resonance with the listed buildings other than being a small part of a broad setting. I have also had regard to the modest scale of the proposal, the degree of separation with the listed buildings and the presence of other existing built form. Consequently, the appeal scheme would not harm the setting of the listed buildings.
36. The proposal would provide one new dwelling and would generate employment during its construction. Although the future occupant would not need to travel by private car to work, they would be reliant on use of a private vehicle in order to access services and facilities. Therefore, any sustainability benefits of the proposal would be limited. There would be some modest benefit arising for the agricultural enterprise and its continued contribution to the rural economy. In addition, there would be some small personal benefit for the appellant and his son in terms of reducing travel time and costs. However, due to the potential for the functional need for a dwelling to be satisfied by existing accommodation, such benefits attract only limited weight.

River Clun SAC

37. The SAC is designated for the presence of the freshwater pearl mussel. Evidence before me shows that the water quality in the SAC is in an unfavourable condition due to high nitrogen and phosphorous levels. Therefore, the freshwater pearl mussel is considered to be in serious decline. Consequently, nutrients entering the catchment upstream has the potential to result in a further decline in water quality within the SAC.
38. The appeal scheme incorporates a septic tank, but no details of the septic tank are provided. For example, calculations on sewage generation, septic tank capacity, equipment maintenance and information on how that would be secured for the lifetime of the development. Therefore, adopting the precautionary approach, the proposal has the potential to result in significant effects on the SAC, either alone or in combination with other developments. Consequently, in the event that the appeal was to be allowed, an appropriate assessment would be required.
39. However, the proposal conflicts with Policy MD7a of the SamDev Plan and Policy CS5 of the Core Strategy, as set out above. As such, unless other material considerations indicate that planning permission should be granted, there is no need for me to consider this matter further.

Conclusion

40. The proposed development would be within the open countryside where there is a presumption against new residential development. This attracts significant weight and outweighs the combination of its benefits.
41. Therefore, the proposal would be contrary to the development plan as a whole, and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachel Hall

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Shenton Gwilliam	Appellant
Robin Hooper	Agent, Hooper Enterprise Associates Limited T/A HEAL Associates

FOR THE LOCAL PLANNING AUTHORITY:

Louise Evans	Principal Planning Officer
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Appeal Decision

Site visit made on 3 October 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/L3245/W/23/3320450

Kyrewood, Clive Avenue, Church Stretton, SY6 7BL

- 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 Peter Foster against the decision of Shropshire Council.
 - The application Ref 22/05112/FUL, dated 16 November 2022, was refused by notice dated 3 February 2023.
 - The development proposed is described as “demolition of existing garage, construction of a new three bedroom property and car proposed parking deck to Kyrewood.”
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage, construction of a new three bedroom property and car proposed parking deck at Kyrewood, Clive Avenue, Church Stretton, SY6 7BL in accordance with the terms of the application, Ref 22/05112/FUL , dated 16 November 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were both invited to make representations on it. No comments have been received.

Main Issue

3. The main issue is whether or not the proposal would preserve or enhance the character and appearance of the Church Stretton Conservation Area (CA) and the Shropshire Hills Area of Outstanding Natural Beauty (AONB) with particular regard to protected trees.

Reasons

4. The appeal site is a detached dwelling located on Clive Avenue. The surrounding area is predominantly residential, characterised by large, detached dwellings on sloping ground, elevated above the A49. The unadopted nature of Clive Avenue, with no separate footway, occasional verges, stone walls and extensive tree planting, and protected woodland at the rear of the site, give the surrounding area a semi-rural and verdant character and appearance.
5. The appeal site lies within the Church Stretton CA which derives its significance from its historic buildings and their spacious layout, as well as the varied and individual appearance of dwellings. The overall verdant character of the area also contributes positively towards the significance of the CA. This is reflected by what is a landscaped and spacious plot.

6. The proposed development would introduce a dwelling to the side of Kyrewood, in place of an existing domestic outbuilding. In order to facilitate the construction of the dwelling a single tree would need to be felled. The submitted Tree Condition Report identifies that this tree does not form part of the woodland tree preservation order (TPO) which is located to the rear half of the site and notes that it has localised decay, minor deadwood and has a less than 10-year life expectancy. This tree is located to the rear of the existing outbuilding and would be removed to facilitate access and construction of the proposed dwelling. Given the extensive tree cover provided by the TPO, I consider that the loss of this single tree would have a neutral effect and therefore preserve the character and appearance of the CA.
7. The Council are concerned that the proximity of the development, and in particular its associated amenity space, to the protected trees would be likely to result in an anticipated pressure to fell trees on amenity grounds, due to the impact on natural daylight. I have carefully considered this matter and observed the relationship between the protected trees, proposed amenity space and the position of the existing and proposed dwelling on the site.
8. Whilst undoubtedly the proposal would result in the introduction of development much closer to the protected trees than is currently the case, the area of proposed garden within the TPO area is currently part of the residential garden of Kyrewood. Additionally, approximately 1356 square metres of amenity space would be provided for the proposed dwelling, whilst only 302 square metres of this would fall outside tree cover, this is sufficient open amenity space for a 3-bedroom dwelling.
9. I accept that there could be the potential for conflict between future residents and some of the protected trees, however the Council would retain the ability to consider these through TPO applications. Nevertheless, on balance I would conclude that the overall design and layout of the proposal would ensure sufficient amenity space not under tree cover to ensure that protected trees would not be harmed. As such, the proposal would have a neutral effect and therefore preserve the character and appearance of the CA.
10. The appeal site is located within the Shropshire Hills AONB. The verdant and semi-rural character of the area contributes positively to the AONB. The proposed development would be located in a residential area and would, apart from one poor quality tree, retain all trees and the protected woodland. The retention of the woodland and the grouping of the proposed dwelling with existing dwellings means that the visual impact of the proposed development would not have an adverse impact on the rural landscape and scenic quality of the AONB.
11. The proposal would, for the reasons I have given, ensure that the character and appearance of the CA and AONB is preserved. As such, it would comply with Policies CS6 and CS17 of the Shropshire Core Strategy (2011), and Policies MD2, MD12 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015). Together these seek to ensure development does not have a significant adverse effect on important woodland, trees and hedges, and that heritage assets are protected. The proposal would also comply with the historic and natural environment policies contained within the Framework.

Other Matters

12. Local residents have raised concerns regarding highway safety. I note from comments received that the access road is private and maintained by the Clive Avenue Residents Association (CARA). Whilst the access road is narrow and sloping, there are areas to stop and allow cars and pedestrians to pass. With the above in mind, vehicles utilising the parking provided for the proposed dwelling would have good visibility and the net increase in use of the road by a single dwelling would not have a harmful impact on highway safety.

Conditions

13. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding surface and foul water drainage and construction management plan are necessary in order to ensure that adequate drainage is provided, and the site is managed acceptably during construction and lifetime of the development. Landscaping and biodiversity conditions are necessary in order to ensure the proposed landscaping and biodiversity mitigation is completed and maintained. Conditions regarding materials and details for windows and doors are necessary in order to safeguard that character and appearance of the area. Conditions regarding improving the access and parking are necessary in order to protect highway safety. I have altered the wording of some conditions in order to ensure they comply with the PPG.
14. I have given careful consideration to the inclusion of the condition removing permitted development rights, having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, the proposed development, whilst currently preserving the character of the CA and not harming the protected trees, if extended could be done so unsympathetically or impact on protected trees. As such, I consider the condition to be necessary.

Conclusion

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

Tamsin Law

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Site Plan drawing no. F522/02A/03, and Proposed Floor Plans and Elevations drawing no. F522/02A/02.
- 3) No development shall commence until details of proposed surface water and foul drainage systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:
 - a. Percolation test results and sizing calculations for any soakaways
 - b. Provision for installation of a silt trap or catch pit upstream of any drainage field.
 - c. Measures to prevent surface water from flowing onto adjacent land, including any public or private highway.
 - d. Details of any other/alternative Sustainable Drainage Systems (SuDS) to be incorporated into the development • Details of foul drainage flows.
 - e. A drainage layout plan, to include details of proposed foul sewer connections The approved system(s) shall be implemented in full prior to the first use/occupation of any part of the development and shall be retained thereafter for its lifetime.
- 4) No development shall commence until a construction management statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period, and shall include provision for:
 - a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. storage of plant and materials
 - d. the erection and maintenance of security fencing/hoardings
 - e. wheel washing facilities
 - f. control of dust, dirt and noise emissions during construction
 - g. timing of construction works and associated activities.
 - h. recycling/disposal of waste resulting from demolition and construction works.
 - i. a construction traffic management plan
- 5) No development shall commence until a detailed scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. This shall include:
 - a. Full details/schedules/densities of all proposed new planting, to include the species and sizes of all plants. The details will include the location for the planting of a specimen tree *Betula Pendula* (Silver Birch) of semi-mature nature, with a height of 4-5m and a minimum girth of 18 to 20cm.
 - b. details of the type/construction, alignment and height of all walls, fences, trellises, retaining structures and other boundary treatments/means of enclosure.

- c. details/samples of hard surfacing materials; and
- d. timetables for implementation.

The landscaping works shall be completed in accordance with the approved details. Thereafter all fences, trellises, walls, hardstanding and other hard landscaping features shall be retained for the lifetime of the development, whilst any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of similar size and species.

- 6) No works in connection with the development hereby permitted, including demolition or site clearance works, shall commence until the Local Planning Authority has been notified and acknowledged in writing that tree protection measures have been established on-site in compliance with the following documents:
 - a. Tree protection plan referenced KCA 04-22 / 01 Rev. A, dated 15th November 2022
 - b. Tree Condition Report/Arboricultural Impact Assessment/Root Protection Areas/ Method Statement', revised 12 November 2022

The agreed tree protection measures shall be retained on-site and fully adhered to for the duration of the development works.

- 7) No works in connection with the development hereby permitted, including demolition or site clearance works shall be carried out within the agreed tree protection zones except in strict accordance with a supplementary, fully detailed arboricultural impact assessment and task-specific method statement which shall first be submitted to and approved in writing by the Local Planning Authority.
- 8) Besides demolition works, no above-ground development shall commence until samples/details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained thereafter.
- 9) Besides demolition works, no above-ground development shall commence until samples/details of the roofing materials and finishes, to include detailing of the ridges, eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained thereafter.
- 10) No external windows, doors or other glazing or joinery shall be installed until details of their material, form and style, including details of glazing bars, mullions, sill mouldings and surface treatments/decorative finishes, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved details and retained thereafter.

- 11) Prior to the first occupation of the development hereby permitted, artificial roosting opportunities for bats and nesting opportunities for wild birds shall be provided at the site in accordance with full details of their types and positions, which shall first be submitted to and approved in writing by the Local Planning Authority. These shall include:
- a. a minimum of one external Woodcrete bat box or integrated bat 'brick' suitable for nursery or summer roosting by small crevice-dwelling UK bat species; and
 - b. a minimum of two nesting boxes or integrated 'bricks' suitable for swifts (swift bricks or boxes with entrance holes no larger than 65 x 28 mm), starlings (42mm entrance hole, starling-specific design), swallows (swallow nesting cups), house martins (house martin nesting cups) and/or small birds (32mm hole, standard design)

These shall be retained thereafter for the lifetime of the development.

- 12) Prior to first occupation of the development hereby permitted, verification report by an appropriately qualified and experienced Ecological Clerk of Works, to demonstrate implementation of the Herptile Reasonable Avoidance Measures Method Statement set out in Section 10 of the submitted 'Environmental Impact Assessment' report by Tom Fairfield, dated August 2022 shall be submitted to and approved in writing by the Local Planning Authority.
- 13) No external lighting shall be installed or provided on the site other than in strict accordance with a detailed scheme which shall first be submitted to and approved in writing by the Local Planning Authority. This shall be designed so as to take into account the guidance contained in the Bat Conservation Trust document 'Bats and Lighting in the UK'.
- 14) Prior to the first use or occupation of the new dwelling, vehicular accesses and parking/turning areas for both it and the existing dwelling at the site (Kyrewood) shall be laid out and surfaced in accordance with the approved plans and the details agreed under Condition 5 above. These shall be retained for their intended purposes for the lifetime of the development.
- 15) Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no extensions, outbuildings or other buildings/structures shall be erected or installed at the site, or alterations carried out, without an express planning permission first being obtained from the Local Planning Authority.



Costs Decision

Site visit made on 3 October 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Costs application in relation to Appeal Ref: APP/L3245/W/23/3320450 Kyrewood , Clive Avenue, Church Stretton, SY6 7BL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Peter Foster for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the demolition of existing garage, construction of a new three bedroom property and car proposed parking deck to Kyrewood
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Decision

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

Reasons

2. National guidance on awards of costs is set out in the Planning Practice Guidance (PPG). The PPG states that in planning appeals and other planning proceedings parties normally meet their own expenses. All parties are expected to behave reasonably. The PPG advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the appeal process or substantive, relating to the merits of the appeal. It provides some examples of the types of behaviour that might be held to be unreasonable, and which may give rise to an award of costs against a Local Planning Authority. With regard to substantive matters, the examples include preventing or delaying development which should clearly be permitted, failing to produce evidence to substantiate a reason for refusal or providing vague and generalised assertions. The list is not exhaustive.
4. The applicant contends that the Council failed to properly assess the proposed development through failing to undertake a full site visit, failing to calculate the quantity of open space, making inaccurate assertions about replacement planting and potentially misinterpreting national policy regarding public benefits.
5. I acknowledge that, based on the Council's evidence, that it does not appear that a full site visit was undertaken. Nevertheless, the tree cover is apparent from the surrounding roads, and sufficient detail was provided with the application that an assessment could be undertaken by the Council.
6. With regards to the calculation of open space, it is apparent from the submissions of both parties that the Council does not have a minimum

standard for private garden space. As such, it is for the decision maker to assess whether the proposed private space is adequate in both size and function. The Council highlighted their concerns in relation to the tree cover and that this could increase pressure on tree felling.

7. In relation to replacement planting, as noted in the applicant's statement of the some 1356 square metres of private amenity space, only approximately 302 square metres are not under tree cover. Additionally, the site is sloped in nature. As such the Council were concerned that further compensatory planting would be difficult due to the constraints on site. Their reasoning for this is clear in their Officer Report (OR) and a material consideration in the determination.
8. The OR provides an assessment of the proposed development and its public benefits stating, "*Although the scheme could deliver some potential social and economic benefits, such as boosting housing supply and providing employment opportunities during the construction phases of development, the social and economic benefits are considered negligible, given the small scale of the development proposed.*" Whilst the reason for refusal has gone on to use the wording 'significant public benefit' I am content that, based on the wording contained within the OR, that the National Planning Policy Framework has not been misinterpreted.
9. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the OR which clearly sets out how the proposal, in the Council's opinion, would conflict with relevant adopted planning policies and the harm that the Council consider would arise. I am therefore satisfied that the Council's reasoning was credible, and it was entitled to reach the decision it did. The fact that I have come to a different conclusion on these matters in my appeal decision does not mean that the Council's assessment amounted to unreasonable behaviour.

Conclusion

10. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR



Appeal Decision

Site visit made on 8 November 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/L3245/W/23/3321693

1 Discovery Close, Craven Arms, Shropshire SY7 9EJ

- 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 S Seal against the decision of Shropshire Council.
 - The application Ref 22/05311/FUL, dated 22 November 2022, was refused by notice dated 27 February 2023.
 - The development proposed is erection of a new 2-storey dwelling, including garage and parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published on 19 December 2023. Insofar as it is relevant to the matters at hand in this appeal, the Framework is consistent with the previous iteration. References to the Framework in this decision are to the new paragraph numbers.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - the living conditions of neighbouring occupants, with particular regard to privacy.

Reasons

Character and appearance

4. Discovery Close is comprised of detached houses set within spacious plots. The landscape bund at the rear of the appeal site forms part of the appellant's garden. This is part of a cohesive landscape feature that extends along the rear of houses on Discovery Close (the road). It is visible from the road, in gaps between buildings. Furthermore, due to the space between Nos 1 and 3 Discovery Close, the landscape bund on the appeal site is visible from Aldon View, with the wooded hills beyond. These gaps between buildings and the resulting visual connectivity with the surrounding landscape are defining positive features of the character and appearance of the area.
5. The proposed dwelling is designed to avoid the root protection area of existing trees on the landscape bund. Growth of those trees may result in pressure from future occupants of the proposal to prune or seek to remove the nearest

trees. However, given the number of trees present, which extend across the top of the bund within the appeal site, I am not persuaded that the extent of pruning or removals likely to be sought, would unacceptably harm the character and appearance of the area.

6. Nevertheless, the proposed house would be of a substantial width, resulting in its two storey built form extending across much of the appeal site. Also, the proposed house would extend relatively close to No 1, and its linked garage would extend close to the garage at No 3. Consequently, the proposed building would be of considerable bulk and would occupy much of the gap between Nos 1 and 3. This would appear prominent in views outside the site on Discovery Close and from Aldon View, considerably curtailing views through to the landscape bund and, where visible, the countryside beyond.
7. I recognise that the footprint of the proposal and extent of garden space would be broadly comparable to some houses in the locality. Also, that the proposal was modified following pre-application advice, including by removing the integral garage. Nevertheless, the proposed scale and bulk of the built form would result in a notable loss of openness and visual connectivity with the surrounding landscape, at odds with the spacious character of Discovery Close.
8. Therefore, the proposed development would unacceptably harm the character and appearance of the surrounding area. Consequently, it would conflict with Policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) (Core Strategy), and Policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015). These generally seek to achieve high quality design that takes into account local character and distinctiveness.
9. Similarly, the proposal would conflict with paragraph 135 of the Framework, which, amongst other matters, requires that proposals are sympathetic to local character, including its landscape setting. Policy MD13 of the SAMDev Plan, relating to Shropshire's heritage assets, is not relevant to this matter.

Privacy

10. The north elevation of the proposal shows a single first floor bathroom window adjacent to the boundary with No 1. In the event that the appeal were to be allowed, a condition could reasonably be imposed to require that the window is obscure glazed, thus avoiding the potential for unacceptable loss of privacy for the occupants of No 1 from overlooking.
11. Also, a first floor door is proposed facing the boundary with No 3, leading on to a first floor terrace. However, much of that boundary adjoins the garage at No 3, which is without windows facing on to the appeal site. Furthermore, a condition could reasonably be imposed requiring installation of boundary treatment that could further limit the potential for overlooking of the grounds of No 3 from the appeal site.
12. Therefore, I am satisfied that the proposal could avoid unacceptable harm to the living conditions of neighbouring occupants, with particular regard to privacy. As such, in respect of this main issue, the proposal would not conflict with Policy CS6 of the Core Strategy.

Other Matters

13. The appellant highlights that part of the landscape bund was removed to allow for a neighbour's garage. Also, that terracing of that neighbour's land has taken place and a building has been erected on the bund. Nevertheless, the effect of such alterations on the character and appearance of the area appears relatively modest in comparison to that associated with the erection of the proposed substantial two storey dwelling.
14. The proposal would achieve an incremental increase in housing supply on an accessible site within an existing settlement, in support of the Government objective of boosting the supply of homes. Small sites can make an important contribution to housing supply and can be built-out relatively quickly. There would be small economic advantages of construction of the proposal which would be short term, and a further modest benefit from occupation of a single dwelling and associated spending in the locality. That the proposal would be acceptable with respect to matters such as highway safety, ecology, privacy, and could be suitably drained, are neutral considerations.

Conclusion

15. Nevertheless, the proposal would harm the character and appearance of the area in conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Rachel Hall

INSPECTOR

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Appeal Decision

Site visit made on 3 January 2024

by **Hannah Ellison BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/L3245/D/23/3323570

Oak Fields, Quatford, Bridgnorth, Shropshire WN15 6QL

- 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 Mark Meadows against the decision of Shropshire Council.
 - The application Ref 23/01721/FUL, dated 19 April 2023, was refused by notice dated 1 June 2023.
 - The development proposed is the erection of a domestic extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues in this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the dwelling and wider area, including the significance of the Quatford Conservation Area; and
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The appeal property is a detached, single storey dwelling located within a generous plot within the Green Belt. Through this appeal, permission is sought for the erection of a single storey side extension.

5. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) (the CS) states that new development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. The Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt subject to a number of exceptions.
6. One such exception, at paragraph 154 c) of the Framework, is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. The term 'original building' is defined in the glossary to the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
8. Neither the Framework nor the CS define what a disproportionate addition means. I consider that an assessment of various factors such as massing, footprint and volume may be relevant when assessing the overall size of the proposal in relation to the host dwelling.
9. The Council has not provided any figures or made a thorough assessment which supports their claim that the proposal would represent a disproportionate addition. However, by the appellant's own admission, the original property has been extended in various ways, including side and porch extensions. Together, they have resulted in an almost doubling of its original footprint. It is clear, therefore, that the footprint of the existing dwelling is considerably larger than the original, and its mass and volume has subsequently increased significantly as a result of previous additions.
10. Accordingly, the proposal, taken in combination with previous additions to the original building, would be a disproportionate addition over and above the size of the original building and it would therefore fail to meet the exception set out in paragraph 154 c) of the Framework.

Effect on openness

11. Paragraph 142 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.
12. Spatially, the proposed extension would be sited in part of the appeal site which currently has a range of domestic features, predominantly a large outdoor kitchen which has a permanent appearance and is covered with a tiled, pitch roof. This part of the site is enclosed by the dwelling and a steep bank leading to a raised area of garden.
13. Visually, the proposal would not result in a discernible difference, albeit the elevations would be fully enclosed and it would clearly read as part of the dwelling rather than an outbuilding.
14. Consequently, the proposal would not result in harm to the openness of this part of the Green Belt.

Character and appearance

15. The appeal site falls within the Quatford Conservation Area (the QCA) whose significance appears to be derived from its rural characteristics and scattered, traditional built form nestled amongst the rolling landscape. The appeal site makes a positive contribution to the QCA given its spacious characteristics and traditional style of built form.
16. The proposed extension has been sympathetically designed so as to reflect and integrate well with the existing property through the use of matching materials, a subservient footprint and a set-back position with corresponding lower roof form. It would not be a bulky or incongruous addition to the host dwelling, whose modest appearance and key characteristics, namely the front gables and dominant chimney, would remain. For these reasons, the proposal would not result in harm to the significance of the QCA.
17. Therefore, the proposed development would not harm the character and appearance of the dwelling and would preserve the character and appearance of the QCA. It therefore accords with Policies CS6 and CS17 of the CS and Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015). Together, these aim for developments which are of high-quality design which responds positively to and conserves the natural, built and historic environment.

Other considerations

18. I acknowledge that dwellings within the Green Belt benefit from permitted development (PD) rights. However, the appellant has not indicated to me what PD rights could be implemented and thus I cannot accurately ascertain whether or not the existence of PD rights are directly comparable to the appeal development and whether they represent a realistic fallback. I therefore afford this matter very limited weight.
19. It has been suggested that the original dwelling was substandard in that it failed to provide sufficient internal space. Be that as it may, it is clear that the original dwelling has since been extended in various ways and there is nothing before me to suggest that it does not currently provide satisfactory living conditions for occupiers. This matter does not therefore attract any positive weight in favour of the proposed development.

Whether very special circumstances exist

20. The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
21. I have concluded that the proposal would be inappropriate development in the Green Belt. In accordance with the Framework, I afford this Green Belt harm substantial weight. A finding of no harm to the openness of the Green Belt and the character of the dwelling and wider area carries neutral weight.

22. The other considerations advanced in support of the appeal do not therefore clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist thus it would fail to accord with Policy CS5 of the CS and the Framework, as referred to above.

Conclusion

23. The proposal conflicts with the development plan as a whole and there are no other considerations which indicate a decision should be made other than in accordance with it. Therefore, the appeal should not succeed.

H Ellison
INSPECTOR



Appeal Decision

Site visit made on 12 December 2023

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 01 February 2024

Appeal Ref: APP/L3245/C/23/3320664

**Land to the Southeast of Stitt Cottage, Ratlinghope, Shropshire SY5 0SN
(Foxglove Cottage)**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Alexander Johnson against an enforcement notice issued by Shropshire Council.
- The notice was issued on 21 March 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land from agricultural use to a mixed use of agricultural and use as a caravan site for residential use including the stationing of two static caravans and three lorry back storage units all in connection and associated with the use of the land as a caravan site for residential purposes.
- The requirements of the notice are to:
 1. Cease the use of the Land as a caravan site for residential purposes.
 2. Remove from the Land two static caravans marked in the approximate positions 'A' and 'B' on the attached plan.
 3. Remove all equipment and paraphernalia brought onto the Land in connection with the use of the Land as a caravan site for residential purposes.
 4. Remove from the Land three lorry back storage units located in the approximate position marked with a 'C' on the attached plan in connection with the use of the Land as a caravan site for residential purposes.
 5. Remove all paraphernalia brought onto the Land in connection with the use of the Land as a caravan site for residential purposes stored within three lorry back storage units marked 'C' on the attached plan.
 6. Remove the touring caravan from the Land and all associated residential paraphernalia stored within.
- The period for compliance with requirement 1 is: 3 (three) months. The period for compliance with requirements 2, 3, 4, 5, and 6 is: 6 (six) months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (d), (f), (g) of the Town and Country Planning Act 1990 as amended (the 1990 Act). Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.

Decision

1. It is directed that the notice be varied by deleting the following requirement at paragraph 5:

“4. Remove from the Land three lorry back storage units located in the approximate position marked with a 'C' on the attached plan in connection with the use of the Land as a caravan site for residential purposes.”
2. Subject to the variation the appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (b)

3. The appeal on ground (b) is made on the basis that the matters comprising the alleged breach of planning control *have not occurred* as a matter of fact. It concerns the circumstances leading up to, and the time when the notice was issued. The onus is on the appellant to demonstrate, with sufficiently precise and unambiguous evidence, that the use of the appeal land had not changed from an agricultural use to a mixed use for agricultural and residential purposes. The test of the evidence is on the balance of probability. The planning merits of the matter alleged do not fall to be considered.
4. I observed at the time of my visit that there were two static caravans, a touring caravan and three lorry backs sited on the lower levelled section of the appeal site. One static caravan was being lived in by Mr Johnson, the appellant, and the other was in a dilapidated state and seemingly unused condition. The touring caravan was occupied by the appellant's pet dog. Although it is stated that the lorry backs are used for tools and equipment, there is no evidence that these are for purely agricultural purposes. I observed an assortment of stored items and in amongst the detritus of objects, there were items of a domestic nature.
5. The appellant acknowledges that they live in one of the caravans on the appeal site and thus does not dispute that the agricultural land has been used for residential purposes. However, they consider that the lorry backs and other caravans do not serve a residential purpose.
6. From the evidence presented and from what I observed, the use of the land has a mixed agricultural and residential purpose and the mobile structures that are sited on the land are utilised in association with that use. It has not been demonstrated that any are used purely in association with an agricultural use of the land. Accordingly, the matters alleged have occurred and there has been a change of use of the land from agriculture to a mixed agricultural and residential use.
7. The appeal on ground (b) therefore fails.

The appeal on ground (d)

8. In an appeal on ground (d), the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the notice was issued, it was too late to take enforcement action in respect of the alleged breach of planning control.
9. The notice was issued on 21 March 2023 for a material change of use of the land from agriculture to a mixed use of agriculture and residential use as a caravan site¹ for residential use including the stationing of two static caravans and three lorry back storage units, all in connection and associated with the use of the land as a caravan site for residential purposes. There is no dispute that the caravans and lorry backs are mobile structures which have been transported to the site. Their siting on the land is a use of the land rather than operational development.

¹ The term 'caravan site' is defined in s1(4) of the Caravan Sites and Control of Development Act 1960 as meaning 'land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed'.

10. Under section 171B(3) of the 1990 Act, where there has been a breach of planning control consisting of the change of use of any land such as in this case, the immunity period is 10 years and no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. Therefore, for the ground (d) appeal to succeed, the appellant must show that the alleged mixed use had occurred by no later than 21 March 2013. It would also be necessary for the appellant to show that the agricultural and residential use of the land had not been substantially interrupted by another use during the 10 year period.
11. Submissions from a third-party state that following the commencement of groundworks and the creation of a new access, three lorry backs and a caravan were brought on to the appeal land. This is reported to have occurred in May 2013. Photographs which are said to have been taken in April 2013 provided by the Council, show groundworks to have taken place and the site to be devoid of any structures. Subsequent photographs dated 15 November 2013 show the site to be occupied by a yellow-coloured lorry back, a white-coloured lorry back and a touring caravan. As these photographs are taken from the roadside at a lower level and the site is screened with black plastic covering a fence, it is possible only to see the roofs of the units.
12. At this time, the land did not belong to the appellant. A Planning Contravention Notice (PCN) dated 8 July 2013 completed by a previous landowner states that 3 containers (the lorry backs) were brought on to the site in May (2013) for the purpose of storing animal feed and equipment. The caravan was also said to have been brought onto the land at the end of May and used for 'rest while putting pigs hut up and chicken house at weekends'. Their intention for the land is stated as being for 'keeping livestock and to become a self-supporting small holding'. In August 2018, a planning application² was refused for the change of use of the land and the erection of two holiday cabins. The land at this time had changed hands but did not belong to Mr Johnson. There is no evidence before me to show that the land was not in an agricultural use.
13. The appellant's grounds of appeal to support their case are limited. They claim that the lorry backs and a static caravan were on the site when they purchased the land and have been on the land for more than 10 years. While there is evidence of the lorry backs being sited on the land in May 2013, there is no evidence to show when a *static* caravan was sited on the land. Notwithstanding this, the alleged breach of planning is the material change of use of the land which is the result of the introduction of a residential use. Therefore, in determining when a change of use took place for the purposes of the ground (d) appeal, regard should be had to when the use of the land for *residential* purposes actually commenced.
14. The appellant states that they have resided at the appeal site since 2019, although they declare that council tax has been paid on the 'property' since January 2020. This is broadly consistent with third party submissions which report that in February 2020 an additional 'large' caravan was brought on to the land along with a touring caravan. These will have facilitated the material change of use by enabling the residential use of the land. Thus, from the presented evidence, and on the balance of probabilities, a change of use of the

² Council ref: 18/03577/FUL

land occurred when the residential use of the appeal site commenced in 2019 or 2020.

15. Consequently, the evidence provided falls short of demonstrating that the mixed use of the land for agriculture and residential purposes occurred more than 10 years prior to the notice being issued. Therefore, in accordance with Section 171B(3) of the 1990 Act, at the date when the notice was issued, the matters alleged in the notice were not immune from enforcement action.
16. Accordingly, the appeal on ground (d) cannot succeed.

The appeal on ground (f)

17. The basis for an appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) provides that the purpose shall be either to remedy the breach of planning control or to remedy any injury to amenity. In this case it would appear from the requirements of the notice that its primary purpose is to remedy the breach by restoring the land to its condition prior to the breach taking place. For the appeal on ground (f) to succeed, the appellant would need to propose alternative steps which would remedy the breach.
18. The appellant claims that none of the structures, except for the static caravan in which he resides, are utilised in association with the residential use of the land and therefore he argues that their removal goes beyond what is required to remedy the breach. As set out under ground (b) above, it has been established that a material change of use of the land has occurred and that the structures on the land have been utilised in a manner to support a residential use.
19. Nevertheless, from the evidence presented by the Council and interested parties, it seems that the lorry backs have remained on the land since they were first brought to the site in May 2013. At that time, the lorry backs had been brought on to the land by a former landowner and used, as detailed in the PCN and not disputed by the Council, in association with the agricultural use of the land. There is no evidence to demonstrate that this use of the lorry backs changed until Mr Johnson bought and moved on to the land.
20. The siting of the lorry backs had been initially undertaken for a different and lawful use in association with the agricultural use of the land and were not brought on to the land for the purpose of a residential use. Thus, they are not considered integral to the making of the material change of use of the land. Their removal, therefore, goes beyond what is deemed necessary to remedy the breach. Accordingly, the requirement to remove them from the land should be deleted from the notice because by complying with the notice, the intended use of the lorry backs for agricultural purposes could continue.
21. Notwithstanding my consideration of the lorry backs, it seems to me that while the one static caravan may have been on the land at the time the appellant purchased the land, there is an absence of evidence to show that it had been brought on to the site to serve an agricultural purpose. Therefore, I find that the remaining requirements of the notice are not excessive but are the minimum necessary to remedy the breach that has occurred. There is nothing short of ceasing the notice land's residential use and the removal of the remaining

mobile structures which facilitate the residential use that would achieve the purpose behind the notice.

22. Thus, there is partial success on the appeal on ground (f) and the notice will be varied accordingly.

The appeal on ground (g)

23. This ground of appeal is that any period specified in the notice in accordance with s173(9) of the Act falls short of what should be reasonably allowed. In making an appeal on ground (g), the onus is on the appellant to suggest different compliance periods.
24. The appellant has not identified what they consider a reasonable period to comply with the notice, although they do request that if three months is insufficient to secure alternative accommodation more time should be given. The need for an extension of the period for compliance needs to be balanced against the harm set out in the notice, which in this case is the harm to the environment and the conflict with the Development Plan. I appreciate that finding suitable accommodation can be challenging and I note that the appellant has registered with Shropshire Homepoint to find alternative accommodation. However, nothing has been put forward to demonstrate that there are no other suitable options available.
25. I recognise that compliance with the enforcement notice would interfere with the appellant's rights as set out in article 8 of the Human Rights Act and dismissal of the appeal on ground (g) would have an impact on the timing and therefore impact of that interference. However, this must be weighed against the wider public interest. Overall, on the evidence before me, and with nothing to persuade me otherwise, I conclude that three months should be sufficient to secure suitable alternative accommodation and six months to comply with the remaining requirements is reasonable considering the reasons for issuing the notice. I am satisfied that any interference with the appellant's human rights are proportionate to the need to adhere to planning law and policy.
26. The appeal on ground (g) therefore does not succeed.

S A Hanson

INSPECTOR

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Appeal Decision

Site visit made on 3 January 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Appeal Ref: APP/L3245/W/23/3317669

Old National Boys School, Station Street, Bishop's Castle SY9 5DD

- 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 RDS Kent Limited against the decision of Shropshire Council.
 - The application Ref 22/02676/FUL, dated 8 June 2022, was refused by notice dated 5 January 2023.
 - The development proposed is the conversion of Old National Boys School to a single dwelling with garden courtyard and off-street parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues in this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.

Main Issues

3. The main issues are:
 - whether the proposed foul drainage would achieve sustainable water management; and
 - the effect of the proposal on the living conditions of occupiers at the proposed dwelling and adjacent properties, with particular regard to odour.

Reasons

4. This appeal concerns the conversion of a former school building, since used as a carpentry workshop, into a two-bedroom dwelling. The site is located in a predominantly residential area close to the centre of Bishop's Castle.
5. The appeal site falls within the catchment area for the River Clun Special Area of Conservation (SAC). The Council confirm that the River Clun SAC is designated because of its population of rare freshwater pearl mussels. Its condition is currently unfavourable, largely due to excess nutrients and sedimentation. In particular, additional phosphate entering the river is likely to further worsen its water quality, and a major source of phosphate is treated wastewater from residential properties. I shall return to this matter later.

Foul drainage

6. It is proposed that the foul waste of the appeal development would be stored in a sealed cesspool within the site. When required, the effluent would then be transported by road for treatment and disposal outside of the SAC catchment area.
7. The Planning Practice Guidance (PPG) makes it clear that when drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. The PPG goes on to state that where a connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered.
8. The guidance in the PPG stems from the building regulations on drainage and waste disposal¹ which sets out a hierarchy of foul water drainage. It notes that, in order of priority, the use of cesspools is the least favoured option, where connection to a public sewer, a private sewer or a septic tank or another wastewater treatment system is not reasonably practicable, in that order.
9. This is further reflected in guidance set out by the Environment Agency, which notes that other than in very exceptional circumstances, the use of non-mains drainage will not be allowed unless it can be proven that a connection to the public sewer is not feasible.
10. I acknowledge that the drainage hierarchy does not preclude the use of cesspools. However, it is clear that their use is a last resort and should only be considered where connection to main drainage is not practicable or where no other option is feasible.
11. Given the small size of the appeal site, a cesspool has been proposed rather than a sewage treatment plant. However, it is confirmed that the appeal building is currently connected to the public sewer, thus a mains connection is clearly feasible and practicable in this location. Accordingly, the proposed use of a cesspool in this case is the least sustainable option for sewage disposal and could be avoided.
12. Leading on from this, Natural England advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites, dated March 2022, makes clear that developments should be connected to the public foul sewer network wherever this is reasonable. This includes areas, such as the appeal site, where the Habitats Regulations apply and any need to reduce nutrient inputs in those areas should not lead to the installation of non-mains foul drainage systems in circumstances where connection to the public foul sewer would otherwise be considered reasonable. Any plan or project then connecting to mains would still need to also be compliant with Habitat Regulations.
13. Setting aside the foul drainage hierarchy, the appellant has nevertheless gone on to suggest that the proposal would pass a Habitat Regulations Assessment, as required for any plans or projects potentially affecting a European site with regard to that site's conservation objectives.

¹ The Building Regulations 2010

14. In particular, the appellant asserts that the use of a cesspool would result in a lesser load on the River Clun SAC as the proposal's effluent would be stored then disposed of outside of the catchment area. Thus, it is suggested that the proposed development would be a betterment to the condition of the SAC, or at least nutrient neutral.
15. However, I cannot be certain that future occupiers would ensure the effluent is treated at a wastewater treatment works outside of the SAC. There is no mechanism before me to secure this and none which I am aware that I could attach.
16. Additionally, the appellant intimates that, even if the proposal would be connected to the public sewer, the development would be at least nutrient neutral in comparison to the fallback/former use of the building as a workshop. This is based on the estimated water consumption figures for 6 employees versus the maximum of 3 future occupiers of the proposed development.
17. I acknowledge that the appeal site lies towards the edge of the catchment area of the SAC and thus it may be possible that employees of the former use of the appeal building resided outside of the area, therefore resulting in the former use generating extra wastewater and consequential nutrient loading on the SAC. However, this is not guaranteed, and I consider that given the size of Bishop's Castle it is likely that a considerable number of the total employees could have resided there.
18. Furthermore, it has not been convincingly demonstrated that the proposed dwelling would generate wastewater at the lower end of the range provided by the appellant. Nor am I persuaded that the former use would have generated the high levels as suggested by the appellant, given the restricted nature of the appeal site and type of activities likely undertaken.
19. I therefore consider that the proposal may result in a net increase in population served by a wastewater system and thus I am not convinced that nutrient neutrality, as a minimum, would be achieved, should the proposal be connected to the public sewer.
20. Notwithstanding the above, the development before me seeks permission for the installation of a cesspool as a means of foul drainage, rather than connection to the public sewer. As the use of a cesspool is unacceptable on its own merits in isolation from the concerns regarding the SAC, for the reasons given above and as will follow on below, there is no need for me as the competent authority to carry out an Appropriate Assessment and then go on to consider the suitability of the proposed cesspool as a mitigation measure, whether it be permanent or temporary.
21. It has been suggested that no circumstances have changed since planning permission was previously granted for residential development at the appeal site², however that permission dates to 2013 when the effect on nutrient levels within the SAC was not a concern.
22. Whilst there may be examples of developments having been granted permission with the inclusion of a cesspool as a means of foul drainage, each proposal is determined on its own merits, taking into consideration matters

² Council ref: 12/04500/FUL

such as the surrounding context and the implementation of the drainage hierarchy.

23. Taking all the above into consideration, the development would fail to achieve sustainable water management and thus would conflict with policies CS6 and CS18 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015). Together with paragraph 180 of the Framework, these policies aim for developments which integrate measures for sustainable water management to avoid an adverse impact on water quality and prevent unacceptable levels of water pollution.

Living conditions

24. I note the appellants comments in relation to the practicalities and frequency of emptying the cesspool. However, the Council's concerns appear to be in relation to the potential for odours from the storage and emptying of untreated effluent in the cesspool.
25. Given the constrained nature of the appeal site, the cesspool would be within very close proximity to habitable rooms of the appeal proposal and the adjacent dwelling. As such, I am concerned that any leakage, overflow or other such discharge from the cesspool or during emptying, or any resulting from its ventilation, would result in odour egress which would be readily detectable for those living within such close proximity.
26. Therefore, the proposal would harm the living conditions of occupiers. My attention has not been drawn to any development plan policies in respect of this main issue thus I have relied upon the Framework. This proposal would conflict with paragraph 135 which aims to ensure developments have a high standard of amenity for existing and future users.

Other Matter

27. The appeal building is a non-designated heritage asset within Bishop's Castle Conservation Area. The Council has raised no issues in respect of these heritage assets. As I am dismissing for other reasons there is no need for me to consider these matters further.

Balance and Conclusion

28. The appeal proposal would see the reuse of a heritage asset which appears to have been neglected for some time. This is a clear benefit of the proposal. The development would also result in an additional dwelling which would make a contribution to local housing stock. It would be within close proximity to shops and services within Bishop's Castle and also to public transport connections to larger settlements. Economic benefits would arise during construction and on subsequent occupation. Given the small scale of the proposed development, I collectively afford these benefits no more than moderate weight.
29. The proposal would conflict with the development plan and there are no other considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR