

Development Management Report

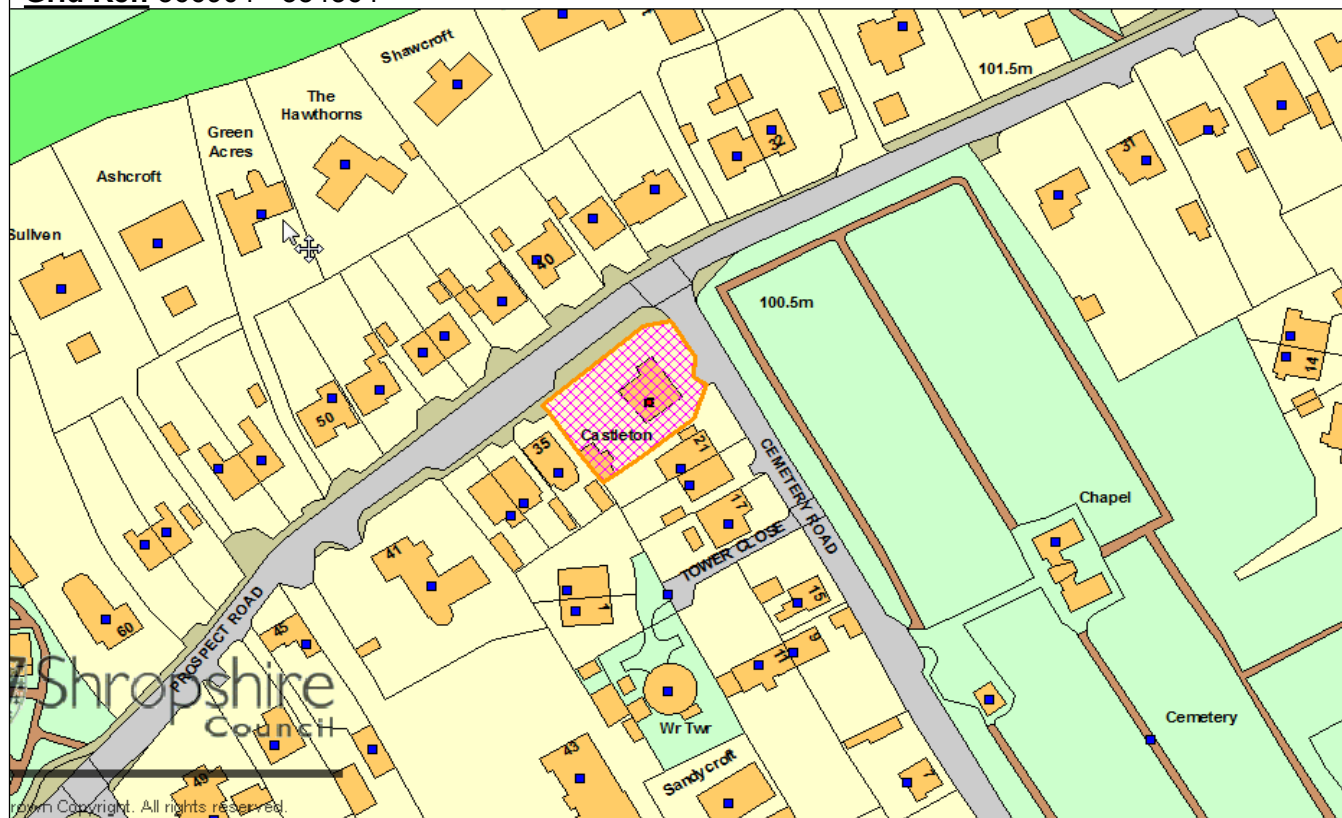
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 15/05463/VAR	<u>Parish:</u> Market Drayton Town
<u>Proposal:</u> Removal of Condition No. 3 attached to Planning Permission NS/03/00825/FUL dated 9 October 2003 to allow the annex to be occupied by a third party as an independent dwelling	
<u>Site Address:</u> Castleton Cemetery Road Market Drayton Shropshire TF9 3BG	
<u>Applicant:</u> Mr Kevan Rudd	
<u>Case Officer:</u> Alison Groom	<u>email:</u> planningdmne@shropshire.gov.uk

Grid Ref: 366904 - 334364



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Recommendation:- Refuse.

Recommended Reason for refusal

1. It is considered that the proposed site is inappropriate for an independent unit of accommodation in addition to the main dwelling and such development would be detrimental to the amenities of all concerned, therefore the removal of the condition does not comply with the relevant policies quoted above from the Shropshire Core Strategy, the SAMDev Plan and the NPPF, and permission is therefore recommended for refusal.

REPORT**1.0 THE PROPOSAL**

- 1.1 The application seeks planning approval for the removal of Condition No. 3 attached to Planning Permission NS/03/00825/FUL dated 9 October 2003 to allow the annex to be occupied by a third party as an independent dwelling
- 1.2 Original approval: NS/03/00825/FUL, conversion of existing barn to provide ancillary residential accommodation to Castleton including raising of the roof to form first floor bedroom – Approved 09.10.2003.
- 1.3 Condition 3 “As the site is inappropriate for an independent unit of accommodation in addition to the main dwelling and such development would be detrimental to the amenities of all concerned, the proposed additional living accommodation for the applicant's family needs shall be occupied and maintained as part of the main dwelling and when the special need for the annexe ceases, it shall be incorporated within the existing dwelling as residential accommodation and shall not be let, sold or otherwise disposed of to form a separate dwelling.”

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Castleton is a relatively modern large detached dwellinghouse situated in a corner plot at the junction of Cemetery Road and Prospect Road. The property is located within a residential area of Market Drayton. The site, Castleton, is currently bordered by small garden wall along Cemetery Road and hedges along Prospect Road (North and East). To the neighbouring properties there are hedges and wooden fencing (South and West).
- 2.2 To the rear of the main dwelling house within the sites curtilage is the residential annex to which this application relates, the annexe building extends to 53.85 sqm across a single floor plus a mezzanine floor. The character of which compliments the adjacent dwelling. Internally the property comprises a bathroom, kitchen/ living space and 1No. Double bedroom located on the mezzanine floor.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 Officers recommendation for refusal is contrary to the Parish Council's views to support the scheme. In consultation with the Chair of the Planning Committee it is considered that the proposal raises issues that warrant consideration by the committee members.

4.0 Community Representations**4.1 Consultee Comments****4.1.1 SC Affordable Housing**

The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore

satisfies the provisions of the SPD Type and Affordability of Housing.

Any other conditions attached to the original application needs to be provided for in any new decision and if there was a S106 Agreement a variation to this will be required, if not a new S106 will be required and payment will be due on signature.

4.2 Public Comments

4.2.1 Parish Council

To raise no objection to this application.

5.0 THE MAIN ISSUES

- Principle of development
- Impact to the residential amenity
- Affordable Housing

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Policy CS3: The Market Towns and Other Key Centres of the Shropshire Core Strategy ensures that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterlands, and providing foci for economic development and regeneration. Balanced housing and employment development, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure, will take place within the towns' development boundaries and on sites allocated for development.

6.1.2 Following the submission of the SAMDev Plan to the Secretary of State at the end of July 2014, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. The SAMDev Plan is now formally adopted by Shropshire Council as of the 17th December 2015. Therefore it is considered that full weight can now be given to the proposed policies within it.

6.1.3 Market Drayton has been identified within the SAMDev as a 'Market Town', thus providing a detailed map showing the development boundary and detailed policy setting out development guidelines for the town and identifying the allocated sites. Policy CS11 indicates that Market Drayton will provide new housing development through the allocation of greenfield sites together with a windfall allowance which reflects opportunities within the town's development boundary. The development site is within the development boundary as such is considered acceptable in relation to policy guidelines.

6.1.4 Policy MD3 : Delivery of Housing Development of the SAMDev Plan states that in addition to supporting the development of the allocated housing sites set out in Settlement Policies S1-S18, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a.

6.1.5 Paragraph 50 of the NPPF states: "To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)

6.1.6 Policy S11 of the SAMDev for the Market Drayton has outlined the need for infill development, as they have allowed the provision of 1200 houses with only 400 on allocated sites. Subsequently, the site falls within the towns development boundary, and the annex is within the residential curtilage of Castleton and can be considered suitable infill development.

6.1.7 The site is located within the development boundary of Market Drayton and is close to many local amenities such as shops, schools, places of employment etc. Market Drayton provides a range of employment opportunities in the area and is well connected to the A41 and A53 allowing easy access to Telford, Wolverhampton, Shrewsbury and parts of Staffordshire such as Newcastle under Lyme.

6.2 Impact to the residential amenity

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity

6.2.2 Policy MD2: Sustainable Design of the SAMDev Plan supports policy CS6 for a development proposal to be considered acceptable it is required to: contribute to and respect locally distinctive or valued character and existing amenity value by:

- Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement.

6.2.3 There are no physical or structural changes to be made to the residential annex, the site currently benefits from two accesses, therefore if approved the annex would have its own self serving access from Prospect Road and the main dwelling house Castleton will be accessed via Cemetery Road. The installation of a new boarded fence will be installed between the two dwellings.

6.2.4 As the annex already exists and there are no changes to be made to the building no additional visual impact to the surrounding properties will be caused.

6.2.5 The site will be sub-divided as illustrated in the image below,.



6.2.6 As the property is a modest one bed property it is likely that the residents will be a young person / couple starting out on the housing ladder, rather than that of a larger family, due to the size of the annex it is felt that impact caused by additional traffic will be minimal and the existing access and parking provision on the site will be sufficient.

6.2.7 It is officers opinion that the sub-division of the annex from the main dwelling house will result in amenity concerns for both properties, the existing dwellinghouse is a large property and the site will become over developed in relation to its surrounding amenity land. The conservatory since added to Castleton's side elevation opens out to the rear garden area, this area of garden will be substantially reduced and will become impracticable amenity area for the enjoyment of the occupiers, furthermore the first floor window openings will look directly over the proposed garden area for the open market dwelling causing a considerable amount of overlooking and resulting in the loss of privacy.

6.2.8 In 2003 the condition was applied to the approval of the annex restricting the accommodation, this was done because the site is inappropriate for an independent unit of accommodation in addition to the main dwelling and such development would be detrimental to the amenities of all concerned. No alteration have been made to the site layout and this still remains the case to the present day and therefore if and when the special need for the annexe ceases, it shall be incorporated within the existing dwelling as residential accommodation and shall not be let, sold or otherwise disposed of to form a separate dwelling.

6.3 Affordable Housing

6.3.1 Shropshire Core Strategy Policy CS11: 'Type and Affordability of Housing' states that to meet the diverse housing needs of Shropshire's residents now and in the future and to create mixed, balanced and inclusive communities, an integrated and balanced approach will be taken with regard to existing and new housing; including type, size, tenure and affordability. The application is subject to an affordable housing contribution, as such, should any permission be granted a S106 Agreement would be required securing the correct contribution to be determined by the prevailing percentage target rate at the date of a full or reserved matters application.

6.3.2 The affordable housing contribution proforma accompanying the application indicates the

correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. Any other conditions attached to the original application needs to be provided for in any new decision, a section 106 Agreement is not attached to the 2003 approval therefore Section 106 Agreement will be required and payment will be due on signature.

7.0 CONCLUSION

It is considered that the proposed site is inappropriate for an independent unit of accommodation in addition to the main dwelling and such development would be detrimental to the amenities of all concerned, therefore the removal of the condition does not comply with the relevant policies quoted above from the Shropshire Core Strategy, the SAMDev Plan and the NPPF, and permission is therefore recommended for refusal.

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:

West Midlands Regional Spatial Strategy Policies:

NPPF

Core Strategy and Saved Policies:

Policy CS6: Sustainable Design and Development Principles

SAMDev Plan:

MD2: Sustainable Design

RELEVANT PLANNING HISTORY:

- NS/81/00982/FUL Erection of extension to existing dwelling to form dining room with bedroom over. Approved 11th January 1982
- NS/02/00045/FUL Erection of a single storey extension to rear elevation of existing dwelling to provide kitchen, utility, WC and study Approved - 5th March 2002
- NS/03/00825/FUL Conversion of existing barn to provide ancillary residential accommodation to Castleton including raising of roof to form first floor bedroom. Approved - 9th October 2003
- NS/04/00177/FUL Erection of a detached private garage – Approved - 17th March 2004
- NS/04/00819/FUL Resubmission of planning permission N/03/784/MD/1167 for conversion of barn to provide residential accommodation to Castleton to include additional patio doors and window. Approved - 22nd September 2004
- NS/09/01212/FUL Conservatory. Approved - 10th August 2009

11. Additional Information

View details online:

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

Appendices

APPENDIX 1 - Conditions