



Recommendation:- Refuse Outline planning permission for the reasons set out below: .

1. The proposed development, by virtue of its open countryside location outside of any settlement identified as suitable for open market residential development, is considered to be contrary to the adopted development plan policies contained in the adopted Shropshire Core Strategy and Site Allocations and Management of Development (SAMDev) Plan. The proposed development has not been justified in terms of meeting the need for an essential rural worker to reside at or near their place of work in the countryside. As such, the proposal will accordingly conflict with Policies CS1, CS4 and CS5 of the adopted Shropshire Core Strategy and MD1 and MD7a of the adopted SAMDev Plan, as well as the national guidance contained within the National Planning Policy Framework.
2. The proposal, by way of its location in the open countryside within the defined Shropshire Hills Area of Outstanding Natural Beauty, would result in an isolated and prominent form of development that would have a detrimental impact upon the intrinsic character and beauty of the countryside and the special qualities of the Shropshire Hills Area of Outstanding Natural Beauty. The proposals are subsequently considered to conflict with the principles of Policies CS6 and CS17 of the adopted Shropshire Core Strategy, MD2 and MD12 of the adopted SAMDev Plan, the guidance contained within the Shropshire Hills AONB Management Plan and the provisions of the National Planning Policy Framework.

REPORT**1 THE PROPOSAL**

- 1.1 The proposed development comprises a new three-bedroom detached dwelling house in the open countryside to provide living accommodation for the owner of a construction storage business located in the rural area of South Shropshire between Longville in the Dale and Wall Under Heywood. The proposal is in outline with all matters reserved. The indicative plans submitted with the application show a detached dwelling house and separate garage accessed from the existing site entrance which is shown to be widened. It is located within the northern part of the site with an area of domestic garden tapering towards the north eastern corner of the site.
- 1.2 The development will have a package treatment plant to deal with foul sewage and surface water will be dealt with via a soakaway system.
- 1.3 Materials are not specified although the Design and Access Statement makes reference to brickwork, render and possible weatherboarding (for the garage).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a small triangular shaped plot of land located on the southern side of the B4371 between the villages of Wall Under Heywood and Longville in the Dale within the Shropshire Hills Area of Outstanding Natural Beauty. It is bounded on its roadside edge by a mixture of trees and hedgerow and there is a gated vehicular access at its north eastern corner that leads into the core of the site. A second gated access exists in the south western corner.

- 2.2 The site contains a single low level 'nissen hut-style' shed used for storage together with a container located on its southern side. At the time of the planning officer's site visit, the site contained a number of open storage areas containing a small amount of building materials (mainly block, pipes, bricks and bagged materials) and associated items such as a wheel barrow, a skip and a portable w.c. Other items included a domestic washing machine and a number of oil drums and plastic drums.
- 2.3 The southern boundary is marked by a low level hawthorn hedge beyond which lies an arable field. The north eastern corner, which is the location for the proposed dwelling house, contains a number of trees. The site is relatively isolated within an agricultural landscape containing scattered farms and traditional cottages.
- 2.4 The site formed part of a previously winding section of the road which became redundant when the road was re-aligned at this point in or before 1970. Following the realignment of the road, the land was used by the County highway authority as a small storage depot in connection with road maintenance.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is reported to the planning committee because the officer recommendation differs from that of the parish council. Following discussions with both the local elected member and the Area Planning Manager it has been agreed that the issues raised in this case warrant consideration by the South Planning Committee.

4.0 Community Representations

- Consultee Comments – comment.

4.1.1 Parish Council –Support:

Rushbury Parish Council – supports the application as the applicant is a local person having lived in the parish for the last twenty years.

4.1.2 SC Drainage - comment:

No objection. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.1.3 - Public Comments:

One letter received in support of the proposal. The following representations have been made:

- The applicant moved to this area from Cornwall 18 years ago working his way up and running his own business

- Planning permission exists for a storage shed on the site
- Essential to live on site for business continuity and security
- Applicants have been great supporters of all community events
- It will be an asset for the area to have a young family living, working and attending school there.

5.0 THE MAIN ISSUES

The main planning issues concern the following:

- Principle of development
- Siting, scale and design of development
- Visual impact and landscaping
- Impact on the AONB
- Highway safety
- Drainage and flood risk

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 The applicant has provided the following additional information. He and his family currently reside at Little Stretton, some six miles away from the application site. He has built the current business up over the last twenty years. The applicant rents another unit on an industrial estate in Church Stretton where a proportion of out of hour's deliveries or collection of machinery takes place. The business provides emergency repairs for contract work as well as a large range of specialist works (not expanded upon) throughout the area. The business owns the majority of tools, plant and equipment which needs regular maintenance back at the yard which must be secure. Specialist equipment is delivered to the yard for collection.

6.2 Principle of Development

- 6.2.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 6.2.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy 2011 and the adopted Site Allocations and Management of Development Plan (SAMDev Plan) 2015.

- 6.2.3 The SAMDev Plan is the second part of the Local Development Framework for the county. The Core Strategy policies are complimented by the SAMDev Plan DPD, which provides additional detail to the over-arching policies contained in the Core Strategy. Following its adoption on 17th December 2015 previously saved policies of the South Shropshire District Local Plan have been superseded.
- 6.2.4 For the rural areas the SAMDev Plan seeks to deliver the 'rural rebalance' agenda prioritised in the Core Strategy Policies CS4 and CS5. In doing so, the Plan identifies those rural settlements where some new development will in principle be appropriate within Community Hubs and Clusters. These settlements are subject to development guidelines taking into account local environmental and infrastructure constraints as well as local views expressed through Parish Plans and Village Design Statements. It is considered to carry substantial weight and is a material consideration in the assessment of this planning application.
- 6.2.5 The National Planning Policy Framework (NPPF) promotes sustainable development and states that new housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. However, this presumption does not apply to sites located within designated areas such as Areas of Outstanding Natural Beauty.
- 6.2.6 The application site lies outside the defined settlement boundaries for the County; therefore, the following Policies are considered to be most relevant.
- 6.2.7 Policy CS1 establishes a settlement hierarchy with new development focussed in Shrewsbury, the Market Towns, other identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth which will reinvigorate smaller settlements within the rural areas using an approach termed 'rural rebalancing'. The application site does not fall within any of these settlements and is, therefore, considered to be open countryside. New housing development within the countryside outside of these settlements will be controlled and is intended to meet the needs of local communities for affordable housing.
- 6.2.8 Policy CS4 relates to Community Hubs and Clusters. Development outside of these settlements will not be permitted unless it complies with Policy CS5. The application site is not located within a settlement and is a considerable distance away from either a Community Hub or a Community Cluster settlement (neither Longville in the Dale nor Wall Under Heywood fall within these categories) and so cannot comply with Policy CS4.
- 6.2.9 Policy CS5 concerns new development within the countryside. It states that new development will be strictly controlled in accordance with national planning policies. The Framework aims to boost the supply of new housing within rural areas where they respond to local circumstances and reflect local needs, especially for affordable housing. Housing should be located where it will enhance or maintain the vitality of rural communities. Isolated homes in the countryside, such as this proposal, should be avoided unless there are special circumstances such as, *inter alia*, the essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 6.2.10 Policies contained within the Core Strategy reflect the guidance set out in the Framework in that the settlement hierarchy established through Policies CS1, CS3 and CS4 seeks to deliver new housing development in the most sustainable locations, including within the rural areas.

- 6.2.11 In respect of the current proposals, Policy CS5 makes provision for dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need where this can be demonstrated in accordance with national planning policies and Policies CS11 and CS12. Where this can be shown, the development will be expected to take place primarily within recognisable named settlements or be linked to other existing development and business activity where this is appropriate.
- 6.2.12 Policy MD7a of the SAMDev Plan is particularly relevant to this case. This policy is concerned with managing the development of land in the countryside for market housing and it clearly states that such housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres, the Community Hubs and Community Clusters. Outside of these areas, exception site dwellings (i.e. those needed to house agricultural, forestry or other essential countryside workers and other affordable housing to meet a local need) and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements. In the absence of such evidence new development will not satisfy the exception test and should not be approved.
- 6.2.13 The applicant's case centres on the proposed development being related to a business in the form of the building supplies and plant business carried on at the site. The dwelling will provide living accommodation for the applicant and his family. The business appears to have become established on this site around November 2012 when planning permission was granted for the change of use of the site from a former Council storage depot to premises for the storage of building/construction equipment and materials. Planning permission was also granted in March 2014 for a new secure general purpose storage building for the business (ref 13/04882/FUL), but there is no evidence on the site that work has commenced on this.
- 6.2.14 The Framework (NPPF), the Core Strategy and SAMDev Plan all seek to avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. In order to justify the dwelling, it is important that the applicants are "rural workers" and that they are able to demonstrate that it is essential for them to live "permanently at or near their place of work in the countryside". If it is not demonstrated that a genuine essential need for the "rural workers to live permanently at or near their place of work" exists then planning permission should be refused.
- 6.2.15 The definition of what constitutes a "rural worker" is not made in the Framework. However, this has previously related to farm workers, forestry workers, persons associated with equine activities and other rural businesses. It is unlikely that employees associated with building suppliers, building contractors and storage businesses would fall into the category of "rural worker". Building contractors' yards or other construction-related businesses have not traditionally been considered to be a rural enterprise. Whilst there are examples of such businesses in the countryside; that does not necessarily equate to the same thing.
- 6.2.16 Farm diversification schemes including leisure activities and tourism-related enterprises sometimes also fall within this category. In order to justify new residential development associated with these enterprises, it has always been necessary to demonstrate a clear functional need for the dwelling and that need fundamentally depended on the requirements of the business rather than the desire of the applicant to live in the countryside. It is also necessary to demonstrate that the business operations could sustain the dwelling, especially where this is the primary dwelling associated with the

enterprise, by providing financial information; usually in the form of audited accounts and a business plan.

6.2.17 Even if it were accepted that the applicant constituted a rural worker for the purposes of Paragraph 55 of the Framework, the next part of the test is to establish that an essential need exists for the rural worker to live permanently at or near their place of work in the countryside.

6.2.18 The degree of activity and investment in the site from a recent site visit appears to be of a low level. Further justification has been requested in respect of the above factors and the applicant has provided the following additional information in respect of the functional and financial aspects:

- The applicant currently lives in Little Stretton, approximately 6 miles (9.7km) away from the site. The dwelling is a modest Grade 2 listed cottage with restricted parking and is not suitable for further development.
- He also rents a unit at Crossways Industrial Estate, Church Stretton 4.8 miles away (7.75km). It is expensive and not entirely suitable. Out of hours deliveries or collection of machinery usually results in noise complaints.
- The applicant has a very simple and straightforward business plan which has served him well. He works hard, takes very few holidays and ploughs all profits back into the business.
- The company owns the majority of tools and plant and needs regular maintenance back at the yard. Specialist equipment is delivered to site for collection. Without permanent presence at the site security is a worry.
- An approval exists for a general purpose building on the site and this shows the applicant's ambition to expand and improve facilities.
- The security problem would be eliminated with a permanent dwelling as a deterrent. The use of CCTV would be of no use without an on-site presence. Guard dogs would be impractical at this rural location. It would be cruel and an organized gang would think nothing of shooting a guard dog.
- Many items of machinery were taken from a secure locked building. The only option would be to either hire a security guard or regularly stop at the site, both of which would be either expensive or disruptive to the applicant.
- In order to expand the applicant needs a site that can operate any time day or night and for this to become reality he needs to be living there.
- The applicant is reluctant to invest in the site unless he is able to live on it.
- Living on site would eliminate wasted travelling time and the business could be operated and run far more efficiently and insurance premiums would be greatly reduced.
- A property with a dwelling, buildings and yard suitable to accommodate BFG Groundwork at an affordable price simply does not exist locally.
- The business is entirely rural based, employs local people, uses local businesses for materials and equipment and the applicant has very strong local connections which have been proven by the Parish Council support.

- The Framework acknowledges rural businesses and the support that should be offered them, because of the economic benefits that they bring. BFG Groundwork certainly fulfills this role and provides jobs and money for the local economy.
- There have in the past been approvals granted for occupational workers dwellings in Shropshire so our proposal is not unique and would not set any precedents.

- 6.2.19 The degree of investment in the site appears to be low and the business at the site has existed for a relatively short period of time. No financial information has been provided to demonstrate how the business is capable of funding the proposed dwelling house and the recently approved storage building. The need for a permanent presence on the site is not supported by these facts. Under normal circumstances, instead of applying for a permanent dwelling at or near the site, small rural-based business ventures would seek an initial temporary form of accommodation which would enable the local planning authority to monitor the enterprise's development over a three year period. If successful, an application for a permanent dwelling might be justified thereafter. However, as it is not accepted that this is a true rural business, even this approach would be difficult to justify.
- 6.2.20 The Framework acknowledges that rural areas have been changing and paragraph 28 encourages support for businesses of all types in rural areas in order to boost economic growth in rural areas. It does not follow, however, that this encouragement extends to new residential development that may be unsustainable. The submitted Planning Statement states that the applicant will not invest in the business at the site unless he is allowed to live there: *"This important rural business requires further investment and focus to ensure that it can flourish and more importantly remain in the locality. Understandably, Mr Flashman is unwilling to undertake the required programme of investment without the knowledge that he will be allowed to build residential accommodation on the site"*.
- 6.2.21 This admission raises a key concern in that it would appear the principal justification for the dwelling is not driven by the needs of the business which, at the present time, appears to be primarily based at the rented site in Church Stretton, but more by a personal desire to live in the countryside. Under normal circumstances, it is usual for the owner of a rural business to apply for a worker's dwelling after the business has been operating successfully for a reasonable period of time and after it has been the subject of investment and growth. This is usually easy to demonstrate with appropriate evidence, such as new capital expenditure on buildings, materials, infrastructure, new contracts, increasing market share and profitability. It is usual for a business plan to be in place showing planned expansion and how it will be financed.
- 6.2.22 There is no such evidence in this case. It is a fact that planning permission exists for a new storage building, but no attempt has been made to implement the permission granted in March 2014. The business activity on the site is evidently very low key. If permission for the dwelling is granted, there is no guarantee that the approved storage building will be erected. In addition, the Planning and Design and Access Statements refer to possible future development on the site, but there is no business plan showing how this will be delivered. The site is not large and new development is likely to require planning permission and there can be no assurance that it will be granted.
- 6.2.23 The granting of a planning permission is not synonymous with investment. Without the commitment to investment that the provision on the site of this storage building would clearly demonstrate, it is not the correct time for an application for a new dwelling house

in the countryside to be considered; notwithstanding the fact that the applicant is not considered to be a rural worker *per se*. This is a builder's yard that just happens to be located in the rural area. It is a business that does not by necessity have to have a countryside location. There are any number of small businesses that are located in rural areas, including motor workshops and light industrial uses. If each of those made a similar case it would result in new housing appearing everywhere there was a small business that just happened to be in the countryside which would fundamentally alter the development strategy of the Council's Development Plan.

6.2.24 The applicant has provided some additional information in support of his application but nothing that demonstrates an *essential need* to live *permanently* at the site. The information provided strongly suggests that the preference to live at the site is more to meet the desires and convenience of the applicant rather than the needs of the business. This is not consistent with either the intentions of the Framework or the Core Strategy and SAMDev Plan.

6.2.25 The applicant has the support of the local parish council and of a member of the public. This is primarily based on the fact that he is a local person and deserves support. Unfortunately, this alone is insufficient to justify approval of a new dwelling in the countryside which must be based on sound planning principles and evidence of need. Otherwise, any person with a local connection would be entitled to build a new house within the countryside without proper analysis and justification. The outcome of such an approach to planning would be to undermine the development strategy set out in the Core Strategy and the SAMDev Plan and the plan-led approach to development management embodied in the Framework.

6.2.26 Planning decisions must be based on consistency and allowing one development based on this approach would create a future problem for the local planning authority. There may, for example, be instances where local people with business interests that are not considered to have an essential need for a countryside location such as vehicle repairers, car sales, other building supplies/contractors and so forth seek planning permission for new dwellings at their place of work. There will be difficulty in resisting these if the decision turns solely on the test of local connection.

6.2.27 For these reasons, it is not accepted that the business operator is a "rural worker" for the purposes of planning policy. There is no essential need for a worker to live "permanently" at or near to the site in this case. In addition, the development will result in an isolated rural dwelling in the countryside, which is also contrary to the advice set out in paragraph 55 of the Framework.

6.3 **Siting, scale and design of development**

6.3.1 The proposal is in outline only so it is not possible to comment in detail at this stage on the design of the dwelling. The siting has been chosen as the only feasible location due to the size, shape and use of the site together with constraints imposed by existing and proposed buildings within it. The site of the dwelling house is close to the northern boundary and will result in loss of a number of trees. However, it is likely that a hedgerow along the boundary will be largely retained thereby helping to soften the physical impact of the new dwelling on the street-scene.

6.3.2 The scale has not been quantified but the Design and Access Statement refers to a modest sized three bedroom family house with a separate garage. Policy states that the primary dwelling for a rural worker should not exceed 100 square metres in floor area. This would provide a suitable amount of floor space for a three bedroom dwelling house and this dimension could be made the subject of a planning condition.

6.4 **Visual impact and landscaping**

- 6.4.1 As mentioned above, the site is in a relatively isolated location where there is little in the way of built form. The surrounding area is predominantly agricultural in character and comprises arable fields and scattered farm buildings and traditional cottages. The application site is visible from the main road, especially from the west, where there are gaps in the boundary hedge/trees. The application site contains a number of trees that will have to be removed to make way for the development. There is a native species hedgerow along the roadside boundary which will be largely retained should the development be approved. These would help to screen the development to some extent from public vantage points although the dwelling house and garage is likely to be visible given its height, proximity to the boundary and deciduous nature of the hedge. Given all of these factors, it is likely that the proposed development will have an adverse impact upon the character and appearance of the area, contrary to policies CS6 of the adopted Core Strategy and MD2 of the adopted SAMDev Plan.

6.5 **Impact on the AONB**

- 6.5.1 The site lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The Framework places great weight on conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty, alongside National Parks and the Broads.
- 6.5.2 The explanatory text to Policy CS5 informs us there will be areas of the countryside where development will need to pay particular regard to landscape character, including the Shropshire Hills AONB. Policy MD12 of the SAMDev Plan concerns new development that affects the natural environment. It lends support to proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB.
- 6.5.3 The Shropshire Hills AONB Management Plan 2014-2019 is a material consideration in the assessment of planning applications that affect the AONB. It states that the AONB designation is not about preventing change, but managing change in a positive way and securing maximum benefit for the area. Public bodies are legally required to 'have regard to the purposes of AONBs in carrying out their functions'. The primary purpose of AONB designation as set out in the National Parks and Access to the Countryside Act (1949, as amended) is "to conserve and enhance natural beauty".
- 6.5.4 Countryside Agency guidance of 2001 sets out the following non-statutory secondary purposes: "In pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry, and other rural industries and of the economic and social needs of local communities. Particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment".
- 6.5.5 Housing appropriate to local need, tourism and business development are required to allow rural communities to survive, but these need to be of a scale, design and quality which complements the special qualities of the AONB. With care and thought it should be possible to address housing need in ways which are compatible with protecting the special qualities of the AONB. Management Plan Policies related to planning are intended to align with existing and proposed planning policies, while adding detail or clarification in relation to the AONB.

- 6.5.6 The design of all housing should demonstrate sensitivity to the special qualities of the AONB and are expected to be higher than outside the AONB. Development should not contribute to the loss of irreplaceable habitats or established ancient trees. All development should integrate well into the historic pattern and character of the surrounding built environment and landscape. Building style should reflect local tradition, and designs should be of a high standard in keeping with the nationally designated landscape. Inappropriate design, layout and materials should be avoided. Innovative sustainable schemes are to be encouraged where they take account of the surrounding vernacular and the use of local materials. Where possible, locally-occurring building materials should be used. Roofing materials should be in keeping with those used in nearby buildings, with no bright coloured tiles or reflective surfaces. The use of photovoltaic tiles matching existing and surrounding roof colours should be encouraged. External lighting on new developments should be kept to a minimum and use down-lighting to reduce light pollution.
- 6.5.7 The application site lies within the AONB and is in a relatively isolated location within the area. Relevant planning policy and policies contained within the AONB Management Plan seek to locate new development within areas of the AONB that do not undermine its landscape and scenic beauty. Notwithstanding the fact that the application is an outline one with all matters reserved for future consideration; it is considered that its isolated and prominent location within a landscape where views are long-ranging means that it will be a conspicuous form of development which would have a harmful impact upon the AONB. The proposed development would not be in accordance with Core Strategy Policies CS6 and CS17 or SAMDev Plan Policies MD2 and MD12.
- 6.6 **Impact on Highway Safety**
- 6.6.1 The proposal will make use of the existing vehicular access that also serves the yard. Although this is also a reserved matter, it is likely that this may be improved so that it is capable of serving both uses without affecting highway safety. The width of the verge and road alignment is such that adequate visibility and a pull-off for a vehicle entering or leaving the site should be achievable. Off-road parking would also be provided within the site to include a detached garage. It is considered that the site is capable of providing adequate parking within the site to meet the needs of a three bedroom dwelling. There are no objections based upon highway safety.
- 6.7 **Drainage and Flood Risk**
- 6.7.1 The Council's Drainage Team has commented on the application and has raised no objection subject to a satisfactory method of foul and surface water drainage being submitted for approval as part of a reserved matters application. There is, therefore, no objection to the proposal on drainage grounds.

7.0 CONCLUSION

- 7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.1.2 The National Planning Policy Framework provides for a presumption in favour of sustainable development. However, the application site is situated in an AONB where this presumption does not apply. Therefore, the proposal must be assessed against the provisions of the Development Plan balanced against other material planning considerations.

7.1.3 The site is an isolated one in the open countryside where new development is to be strictly controlled under the provisions of the adopted Development Plan. The site is not within a defined Community Hub or Cluster where new development is to be focussed as part of the Development Plan strategy for the rural areas. The proposals will not meet any of the exceptions to this strategy, such as meeting the essential need for a rural worker to live at or near their place of work in the countryside. There is no justification for the proposed dwelling house in this isolated location which would cause harm to the character and intrinsic beauty of the open countryside and to the special qualities of the AONB.

7.1.4 In conclusion, the proposed development would not be in accordance with either the adopted Development Plan or the adopted Shropshire Hills AONB Management 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

National Planning Policy Framework:

The following paragraphs are considered to be relevant: 7, 14, 17, 54, 55, 56, 58 and 115.

Shropshire Adopted Core Strategy:

CS1 Strategic Approach

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

Shropshire Adopted 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

RELEVANT PLANNING HISTORY:

1. 10/00784/FUL – Erection of building for maintenance and repair of plant and commercial vehicles; erection of security lighting; installation of septic tank. Refused 01/06/2010
2. 12/03007/FUL - Change of use of former Council depot for the storage of building and construction equipment and materials. Approved 13/11/2012
3. 13/04882/FUL - Erection of a secure general purpose storage building. Approved 19/03/2014
4. 14/01905/DIS - Discharge of Condition 4 of Planning Consent 13/04882/FUL (Erection of a secure general purpose storage building). Approved 20/05/2014
5. PREAPP/12/00109 – Erection of Local needs exception site dwelling. Unacceptable location and contrary to planning policy 28/02/2012.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NNBQCRTDK0400>

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</p> <p>Design and Access Statement</p> <p>Planning Statement</p>
<p>Cabinet Member (Portfolio Holder)</p> <p>Cllr M. Price</p>
<p>Local Member</p> <p>Cllr Mrs Cecilia Motley</p>

Informatives

Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 187, the proposed development is contrary to the policies set out in the Committee Report and referred to in the reason for refusal, and it has not been possible to reach an agreed solution.