

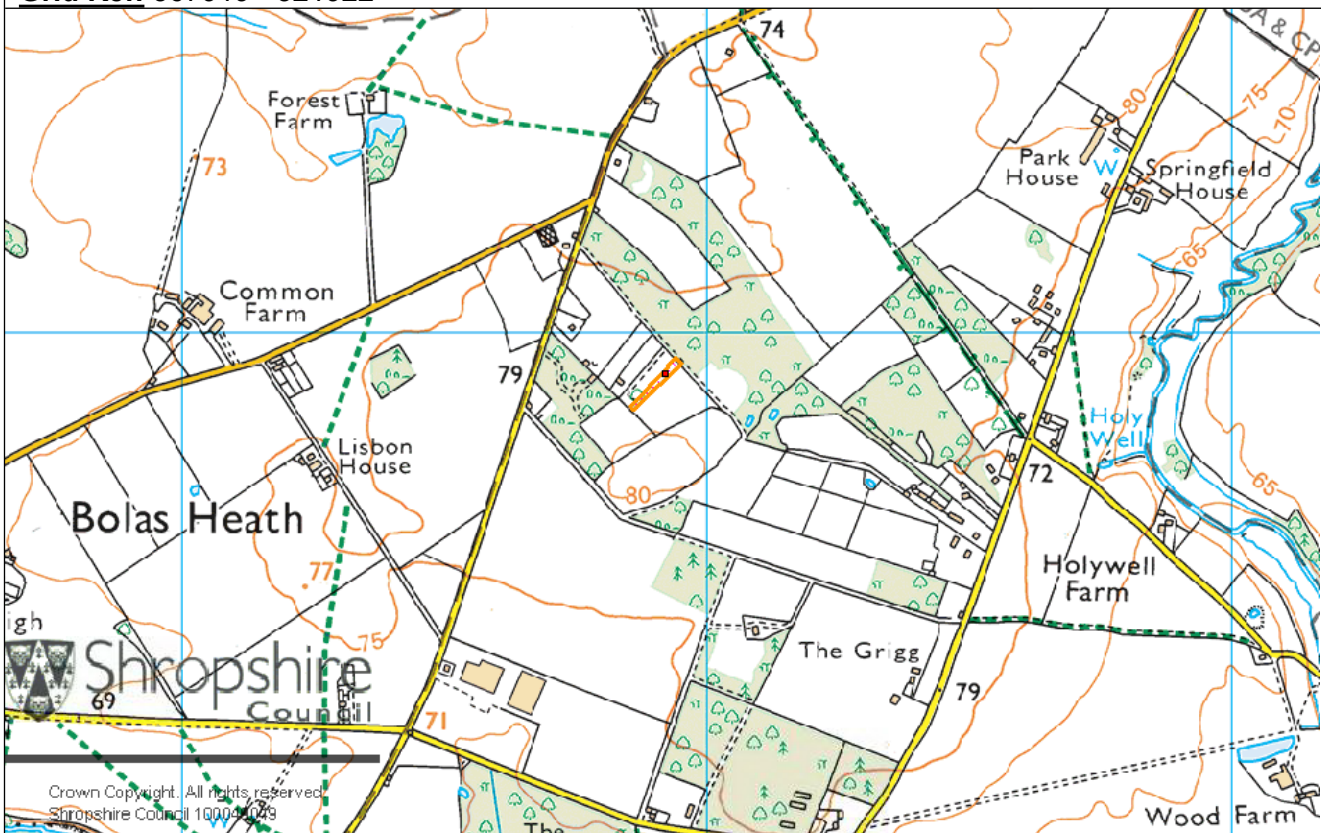
Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 16/04106/FUL	Parish:	Childs Ercall
Proposal: Erection of two-storey extension to existing residential care facility		
Site Address: The Retreat Bolas Road Ercall Heath Telford Shropshire		
Applicant: Inspire Capital PropCo Ltd		
Case Officer: Philip Mullineux	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 367919 - 321922



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

- 1.1 The application proposes the erection of a two-storey extension to a residential dwelling which has recently been used as a residential care facility with a C3 use class at The Retreat, Bolas Road, Ercall Heath.
- 1.2 The existing property is classified as falling within residential use. A decision notice dated 13th December 2013, (reference 13/04507/CPL), - Application for Lawful Development Certificate to use an existing dwelling as a single household care home for children has an informative attached to it which states:
- 'The proposed use for The Retreat, Bolas Road, Ercall Heath as a children's residential home as indicated in the supporting information is considered to fall within use class C3. Planning permission is therefore not required in this instance for the change of use from residential (use class C3) to a residential care home (C2), and this interpretation is endorsed by the Council's Legal and Democratic Services section. Accordingly a Certificate of Lawfulness can be issued.'*
- 1.3 Circular 03/2005 (subsequently replaced by Planning Policy Guidance), clearly advises that residents and staff can form a single household. Although there is no limit on the number of persons living as a family there is a limit for residents and staff living together which would be a maximum of 6 persons. It is understood in accordance with detail submitted in support of the certificate of lawfulness application by the agent Peter Richards that the dwelling was for the occupation of up to 6 persons (three children and 3 adults).
- 1.4 The application under discussion is accompanied by a set of elevation and floor plans, block plan and site location plan. Further information was submitted during the application processing by the applicants agent in response to comments made by the Local Parish Council and members of the public.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in a relatively isolated open countryside location and access to the site is obtained along a stone track. The dwelling is detached and two-storey of external render and timber clad construction and contemporary in design.
- 2.2 The design proposal is to extend the dwelling on the north east side with a two storey extension with a footprint of 32m² which will provide approximately 50m² additional floor area over the two floors. The proposed extension of this existing building will follow the same form, massing and style of the existing and be constructed with materials to match the appearance of the existing fabric. A mono pitch roof with a timber clad first floor will sit on a white rendered ground floor. The fenestration pattern will follow that of the existing with double glazed UPVC windows coloured grey externally. The new windows on the north west elevation facing Oak Cottage are small to provide ventilation only. That to the WC would have obscure glass. The proposed entrance will be relocated to the south east elevation to allow better use of the additional ground floor accommodation.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application has been requested for Committee consideration by the local member and it is noted that the Local Parish Council raise objections to the application. With consideration to local concerns and the high volume of objections received the Chair and Vice of the North Planning Committee consider it appropriate for this application to be considered by Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 **Child's Ercall Parish Council** have responded as follows:

The monthly meeting of Childs Ercall Parish Council was attended by 26 members of the public, residents who live close to The Retreat and the other nearby properties used as homes for problem children and their carers.

It was pointed out that many of the residents from nearby properties were unaware of the application until this week as the application isn't on the Childs Ercall list of applications on the planning portal and additionally the required notice has been posted on the gateway to the property which is at the end of a private access track shared by three properties, not the public highway as required, therefore committing a technical breach. The Parish council would request that the application should be correctly advertised at the entrance to the access track on the public highway and the consultation period re-commenced to allow any comments from the owners of neighbouring properties to be forwarded to you.

4.2 Consultee Comments

4.3 **The Land Drainage Manager** raises no objections indicating:

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/.

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.

4.4 **SC Public Protection Manager** raises no objections. The response indicates:

Having considered the proposal I have no reasons to object to the proposals. The applicant should be made aware that should noise complaints be received that amount to a statutory nuisance that legal notice could be served on the owners of the site/business operating from the site. As a result

I would recommend that the applicant takes measures as necessary to reduce the potential for any noise disturbances.

4.5 **Public Comments**

Thirty six letters of objection have been received from a members of the public at the time of writing this report and this includes a letter from The Ercall Heath Action Group set up to oppose this application.

The letters received raise many issues in relationship to the use of the dwelling and key issues raised can be summarised as follows:

- Concerns with regards the Council's advertising of the application.
- Unsuitable rural location for the intended use of the dwelling.
- Access road leading to the site is considered unsuitable.
- Emergency services will have trouble accessing the site.
- Concerns with regards to the cumulative impact of the intended use of the dwelling in relationship to other care homes within the surrounding area.
- No economic benefits of the intended use of the property in relationship to the local community.
- Impact on the amenity of the surrounding area in relationship to the intended use of the site.

The full details of the letters received can be viewed on the Council's application website at: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OD90T6TDGW600>

5.0 **THE MAIN ISSUES**

- Principle of the development
- Siting, scale and design of structure
- Visual impact and landscaping

6.0 **OFFICER APPRAISAL**

6.1 **Principle of the development**

6.1.1 The application proposes a two-storey extension to a residential dwelling.

6.1.2 Policy CS6 of the Shropshire Core Strategy: 'Sustainable Design and Development Principles' requires development to protect to conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard both residential and local amenity, ensuring that sustainable design and construction principles have been incorporated. This is further reiterated within SAMDev MD2 which reinforces the need for proposals being on appropriate sites that take into consideration their local surroundings.

6.1.3 The proposal is for a two-storey extension onto an existing dwelling which is classed as a dwelling unit, albeit it is understood the dwelling has been in use in the past as a children's care home for the occupation of up to 3 children and 3 adults. As such the proposed development needs to be considered against housing

policies whilst also giving consideration to sustainability issues.

6.1.4 As indicated earlier in this report a Certificate of Lawfulness was issued by the Council on 13th December 2013 (reference 13/04507/CPL), and this established that the use of the property as a care home was LAWFUL within the meaning of section 191 and 192 of the Town and Country Planning Act 1990 (as amended) for the following reason[s]:

6.1.5 *'The proposed use for The Retreat, Bolas Road, Ercall Heath as a children's residential home as indicated in the supporting information is considered to fall within use class C3. Planning permission is therefore not required in this instance for the change of use from residential (use class C3) to a residential care home (C2), and this interpretation is endorsed by the Council's Legal and Democratic Services section. Accordingly a Certificate of Lawfulness can be issued'*

6.1.6 This clearly established that use of the home for up to three children with two adults residing on site and one adult attending the site on a daily basis was lawful in relationship to use of the dwelling and as such change of use to a care home was not required.

6.1.7 Class C3 – dwelling houses, in accordance with the General Use Classes Order, allows use of a dwelling house for not more than six residents living together as a single household where care is provided for residents. It is understood the applicants intend to use the dwelling in accordance with its previous use which is in accordance with the Order.

6.1.8 As such the use of the dwelling as a care home is not a material consideration and does not form part of the current application. As such the use of the property is not a basis to consider for refusal of the current application.

6.2 **Siting, scale and design of structure**

6.2.1 The existing dwelling is contemporary in design and was granted planning permission on 17th November 2010 (reference 10/04114/VAR) as a replacement dwelling on site.

6.2.2 The application proposes a subservient extension onto the existing dwelling in order to increase the habitable accommodation of the dwelling, which is presently a four bedroomed detached dwelling. The proposed extension is two-storey and will create 2 further bedrooms on the first floor.

6.2.3 Shropshire Council Supplementary Planning Document on Type and Affordability of housing, (SPD), in relationship to house extensions and replacement dwellings in the countryside, clearly states that the market trend is towards larger and more expensive dwellings in the countryside and that it is important to maintain the stock of existing smaller, lower cost market dwellings.

6.2.4 The SPD indicates that extensions to existing dwellings should be sympathetic to the size scale and mass of the original building and that in assessing proposals regard will be given to any need to upgrade residential amenity to a reasonable modern standard.

6.2.5 The existing dwelling stands in a reasonably large domestic curtilage in relationship to the scale and massing of the dwelling on site.

6.2.6 Information in support of the application for the Certificate of Lawful use (reference 13/04507/CPL indicated that 3 children will reside on site along with two members of staff and a third member of staff will travel to the site. (In other words 2 members of staff sleep on site). The current extension will provide for this level of occupants.

6.2.7 In this instance it is acknowledged that owing to the contemporary design of the existing dwelling it is not straight-forward to add an extension to the dwelling. However any extension must be subservient and with consideration to the information submitted in support of the application, it is considered that the extension as proposed is subservient in scale and massing in relationship to the existing dwelling on site and as such with consideration to the justification as put forward by the applicants in support of their application and the scale and design of the proposed development, the overall scale, massing and design is considered acceptable and in accordance with relevant Shropshire Core Strategy and SAMDev policies and national planning policy on this matter.

6.3 **Visual impact and landscaping**

6.3.1 Visual impact and landscape impact is considered acceptable with consideration to the scale and design of the proposed extension and location for the development.

6.4 **Other matters.**

6.4.1 The proposed development is considered acceptable in relationship to drainage issues with the attachment of an informative as recommended by the SC Land Drainage Manager.

6.4.2 Residential amenity and privacy issues are also considered acceptable in relationship to the principle of an extension to a dwelling house. Use of the dwelling in relationship to Care Homes in the surrounding area and cumulative impacts as suggested in letters of objections received from members of the public are not considered an adequate material consideration on which basis to recommend refusal to the application.

6.4.3 Public Highway and transportation matters raise concerns from members of the public in that the site is considered unsustainable in relationship to business use and creation of a larger dwelling with two further bedrooms will almost certainly increase vehicular movements. As indicated earlier the dwelling has a certificate of lawfulness for use of the site which it is considered complies with the use classes order and as such public highway access in relationship to the existing use of the site which will not be further intensified is considered acceptable. Access to the site in relationship to emergency vehicles and use as a residential dwelling in planning terms considered acceptable.

6.4.4 The proposal raises no issues of concern in relationship to ecology and historic environmental issues.

6.4.5 A site notice was placed on the entrance to the property and 12 surrounding dwellings were informed by the Council via a letter in the post. This more than full-

filled the Council's statutory requirements in relationship to advertising the application. The site is in a relatively isolated and rural location and with the amount of household letters sent out there would have been no need in this instance to place a notice on site.

7.0 **CONCLUSION**

7.1 On balance the proposed development with consideration to the location, overall design and justification as put forward is considered acceptable.

7.2 The proposal raises no material consideration concerns as outlined in the report above, and as such the proposal is considered to be in accordance with relevant Core Strategy policies CS5, CS6, CS8 and CS17 and SAMDev policies MD1, MD2, MD7a, MD7b, MD8, MD12 and MD13, the Supplementary Planning Document on Type and Affordability of Housing, and the overall aims and objectives of the National Planning Policy Framework. As such the recommendation is one of approval subject to the conditions as outlined below.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 **Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 **Human Rights**

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

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

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

recommendation.

8.3 **Equalities**

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

9.0 **Financial Implications**

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

10. **Background**

Relevant Planning Policies

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS8 - Facilities, Services and Infrastructure Provision

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD7B - General Management of Development in the Countryside

MD8 - Infrastructure Provision

MD12 - Natural Environment

MD13 - Historic Environment

Supplementary Planning Document on Type and Affordability of Housing

Relevant planning history:

NS/06/01511/FUL Erection of replacement dwelling CONAPP 17th August 2006

NS/07/01622/DET Approval of Reserved Matters (siting, design, external appearance, landscaping) for the erection of replacement dwelling (N/06/634/CE/115 OUTLINE) granted 17th August 2006. CONAPP 16th October 2007

NS/09/00211/FUL Erection of replacement dwelling GRANT 6th April 2009

10/04114/VAR Variation of Condition No. 2 attached to Planning Permission Ref: 09/00211/FUL dated 06/04/2009 to build a smaller replacement dwelling GRANT 17th November 2010

11/02932/AMP Non Material Amendment to Planning Permission 09/00211/FUL Erection of replacement dwelling GRANT 7th July 2011

11/04361/VAR Variation of Condition No. 6 attached to planning permission 09/00211/FUL to allow the existing building to remain GRANT 17th November 2011

13/04507/CPL Application for Lawful Development Certificate to use an existing dwelling as a single household care home for children LA 13th December 2013

11. Additional Information

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Andrew Davies

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

Informatives.

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at: www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/. 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.
2. The applicant (or successors in title), are reminded that the dwelling can be used for the care of up to 3 children on site without the requirement for change of use on the understanding that no more than 6 persons reside on site in accordance with the information as outlined in the decision notice dated 13th December 2013 reference number 13/04507/CPL - Application for Lawful Development Certificate to use an existing dwelling as a single household care home for children

The proposed use for The Retreat, Bolas Road, Ercall Heath as a children's residential home as indicated in the supporting information is considered to fall within use class C3. Planning permission is therefore not required in this instance for change of use from residential (use class C3) to a residential care home (C2).

3. The applicant or successors in title are reminded that should any noise complaints be received that amount to a statutory nuisance that legal notice could be served on the owners of the site/any business operating from the site and as such it is recommended that measures are put in place as necessary to reduce the potential for any potential overbearing noise disturbances.