



<u>Committee and Date</u>
North Planning Committee
29 th November 2016

<u>Item</u>
5
Public

Development Management Report

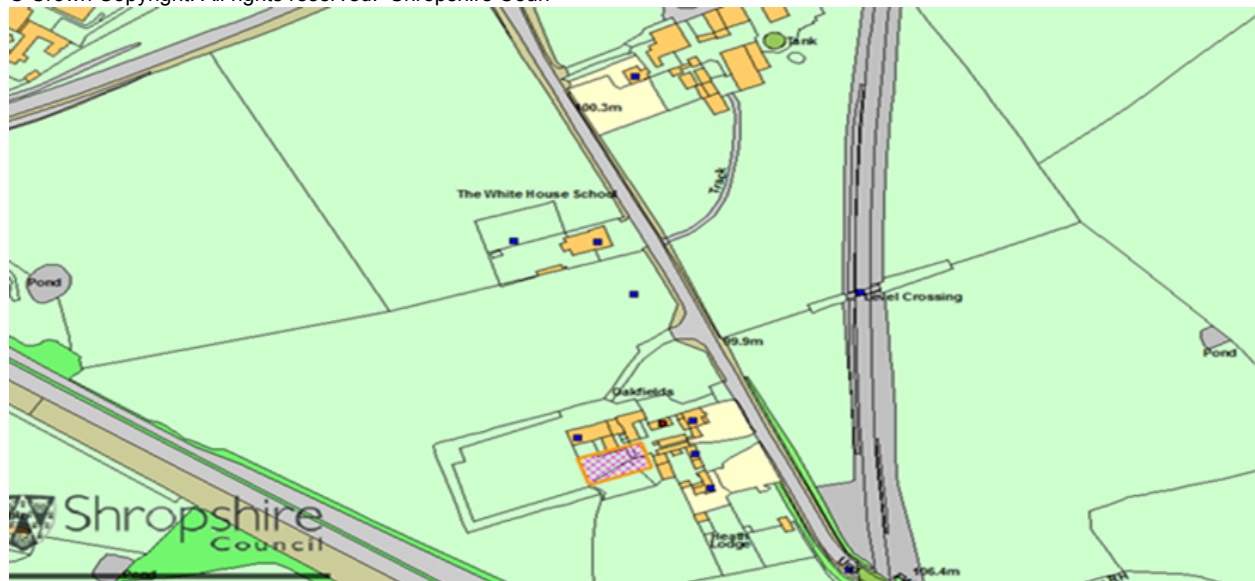
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 16/03848/FUL	<u>Parish:</u>	Whitchurch Urban
<u>Proposal:</u> Erection of one block of 30 kennels		
<u>Site Address:</u> Kennels Oakfields Heath Road Whitchurch SY13 2AA		
<u>Applicant:</u> Mr Kevin Carty		
<u>Case Officer:</u> Mared Rees	<u>email:</u> planningdmc@shropshire.gov.uk	

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Grid Ref: 354857 – 340084

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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for the construction of 1no. block of 30 kennels.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within designated open countryside as identified on Policy Map S18 INSET 1 Whitchurch Place Plan.
- 2.2 The application site is located at Oakfields Kennels.
- 2.3 Directly north and east of the site are existing buildings associated with the Kennels, to the south east of the site is a neighbouring dwelling, directly south is greenfield land whilst to the west lies land allocated for employment use under ELR035, as identified in the SAMDev.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 Whilst no formal response has been received at the time of writing this report from the Parish Council, the Local Member has requested Committee consideration. The Chair and Vice in discussions with the Principal Officers have concluded that owing to the location that this application is appropriate for Committee consideration.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 - **Consultee Comments**
Parish Council – No comments received to date.

SC Drainage – No objection.

SC Public Protection – No objection.

Concerns were expressed by the neighbouring property to the south east of the site, in regards to noise pollution relating to the development proposal.

SC Public Protection have subsequently visited the site and consider that the height of the building, together with the height of the bund and acoustic fence and the position of the buildings in-between the proposed building and existing

residential property, would not result in a detriment to existing or proposed levels of residential amenity, as a result of the increase in number of dogs on the site.

SC Public Protection further comment that the siting of the building between an existing kennel and the residential dwelling may result in a reduction in noise, given it would screen existing, less well attenuated units from the neighbouring residential dwelling.

SC Public Protection further recommended that the removal of the internal windows from the kennel into the inner corridor would be beneficial from a noise perspective. This has been undertaken by the agent and is demonstrated on revised drawing (Dwg No W16/2438/SK02 C).

Conditions to secure details of sound proofing and the noise screening fencing are considered appropriate.

Highway Authority – No objection.

The existing access is considered adequate. The new facility is considered may increase visitor numbers. A condition to secure parking provision prior to commencement of development is considered reasonable in this respect.

SC Trees – No objection.

Condition recommended to secure retained trees in accordance with the Tree Protection Plan and erection of the protective fence prior to commencement of development.

SC Ecology – No objection.

Condition recommended to secure bat boxes.

4.2 - Public Comments

One representation received objecting to the proposal.

Concerns raised include:- adverse impacts on residential amenity and water pressure.

5.0 THE MAIN ISSUES

Principle of development
Character and Appearance
Residential Amenity
Highway Safety
Trees
Drainage
Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application site is located within designated open countryside as identified on Policy Map S18 INSET 1 Whitchurch Place Plan Area.
- 6.1.2 Core Strategy Policy CS5 states amongst other criteria, that new development in open countryside will be permitted where it involves the retention and appropriate expansion of an existing established business, unless relocation to a suitable site within a settlement would be more appropriate.
- 6.1.3 Core Strategy Policy CS13 seeks to promote Shropshire as a place for a range of businesses to invest and grow.
- 6.1.4 Policy MD4 of the SAMDev states that employment land and development will be delivered by permitting proposals that are sustainable development and comprise sui generis uses, that are compatible with adjoining uses and satisfy the relevant settlement policy and accompanying development guidelines.
- 6.1.5 The proposal seeks planning permission for an additional block of 30 kennels at Oakfields Kennels.
- 6.1.6 The business currently operates at two sites, the site at Oakfields subject of this application and a site at Higher Heath, called Chessmere Kennels.
- 6.1.7 The site at Oakfields currently has 57 kennels with a license to accommodate 64 dogs. The site at Chessmere has 30 kennels with a license to accommodate 38 dogs.
- 6.1.8 The site at Chessmere has recently been granted outline planning permission for up to 20 no. dwellings under 14/05182/OUT. A reserved matters application under 16/02599/REM has not yet been determined.
- 6.1.9 The agent has confirmed that the kennels at Chessmere will be closing. The purpose of the application therefore is to relocate the existing 30 kennels from Chessmere to Oakfields.
- 6.1.10 The site at Okafields is an existing established business and there is provision on the site to accommodate an additional 30 kennels, currently operating at Chessmere.
- 6.1.11 The business has 8 members of staff and 2 managers. Staff would be reduced to 6 when the site at Chessmere closes. The agent states that the relocation of the 30 kennels to Oakfields would ensure that all staff are retained.
- 6.1.11 The proposal would maintain the operations of the existing business, resulting in staff retention and continued service provision which includes providing kennelling

dog warden services to four local authorities and three police forces, as well as private holiday boarding.

- 6.1.12 Subject that there are no resultant adverse impacts on visual and residential amenities or highway safety implications, the principle of development is considered to be acceptable.
- 6.1.13 The proposal would comply with Core Strategy Policies CS5 and CS13 as well as SAMDev Policy MD4.

6.2 Character and appearance

- 6.2.1 The proposal would be located within the existing building complex, which is considered to be logical and would result in minimal encroachment into this open countryside location.
- 6.2.2 The building is considered to be fairly significant in its overall scale when viewed in the context of the existing buildings on site. However, its maximum height is considered to be limited, measuring 2.2m, which would help to reduce the overall visual impact of the building.
- 6.2.3 Its height is also considered to be comparable in height to the existing building directly adjacent to the site.
- 6.2.4 The building would be functional in its appearance, being designed for its required use and purpose.
- 6.2.5 A landscape bund would be sited around part of the eastern and southern perimeters of the building, in accordance with the requirements of SC Public Protection.
- 6.2.6 This is considered to be acceptable from a visual amenity viewpoint, given the scale of the bund would not over dominate or appear incongruous in relation to the site and its surroundings.
- 6.2.7 The proposal is not considered would adversely impact on existing levels of visual amenity and would comply with Core Strategy Policy CS6 and SAMDev Policy MD2.

6.3 Residential Amenity

- 6.3.1 SC Public Protection originally requested additional information in regards to the siting and specification of the proposed noise screen bund.
- 6.3.2 The information and revised plan received on 29th September was considered to be appropriate by SC Public Protection, subject to conditions to secure the relevant mitigation required.

- 6.3.3 The neighbouring property has since raised concerns regarding the potential impact of the development on existing levels of residential amenity. Concerns raised relate to noise impacts on the office located within their residential curtilage and the main bedroom of the dwelling.
- 6.3.4 Following a site visit, SC Public Protection confirm that having regard to the height of the building, the height of the bund and acoustic fence as well as the siting of the building, the proposal is not considered would result in adverse impacts to existing levels of residential amenity to the neighbouring property, sufficient to warrant refusal of the application.
- 6.3.5 SC Public Protection further consider that the removal of the internal windows from the kennel into the inner corridor would be beneficial from a noise perspective, which the agent has undertaken and is demonstrated on revised plan Dwg No W16/2438/SK02 C.
- 6.3.5 Conditions to secure sound proofing details and noise screening fence are considered reasonable to ensure all relevant works are undertaken prior to first use of the development.
- 6.4 Highway Safety**
- 6.4.1 The existing access would be utilised and is considered adequate.
- 6.4.2 The proposal is considered may result in an increase in visitor numbers to the site.
- 6.4.3 A condition to secure parking provision prior to commencement of development is considered reasonable to ensure appropriate levels of parking provision is provided.
- 6.5 Trees**
- 6.5.1 SC Trees raises no objection.
- 6.5.2 A condition to secure retained trees in accordance with the Tree Protection Plan is considered appropriate and that the protective fencing is erected prior to commencement of development.
- 6.6 Drainage**
- 6.6.1 SC Drainage confirm the use of soakaways are acceptable and raise no objection.

6.7 Ecology

6.7.1 SC Ecology raises no objection.

6.7.2 Condition recommended to secure bat boxes.

7.0 CONCLUSION

7.1 Overall, the proposal is considered to be acceptable in principle, having regard to the provisions set out in Core Strategy Policies CS5 and CS13 and SAMDev Policy MD4.

7.2 The proposal it is not considered would raise any adverse impacts on existing levels of visual amenity.

7.3 Consultation responses in regards to the impact of the proposal on existing residential amenities, highway safety, ecology and trees will be provided in late representations and if required, as verbal updates to Committee.

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 1970.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

**Central Government Guidance:
NPPF**

**Core Strategy and Saved Policies:
CS5, CS6, CS13**

**SAMDev:
MD2, MD4, S18**

RELEVANT PLANNING HISTORY:

None relevant.

RELEVANT PLANNING HISTORY:

16/03848/FUL Erection of one block of 30 kennels PDE

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 Gerald Dakin

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings.
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until details for the parking of vehicles have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to first use of the development and shall 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.

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

4. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.
Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

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

5. The sound proofing materials to be used in the development hereby approved shall be as specified within the submitted Noise Assessment dated July 2016 and the Sound Insulation Prediction dated 06th July 2016.

Reason: In the interest of safeguarding existing levels of residential amenity.

6. The soundproof bund and timber panel fencing as shown on approved plan Dwg No. W/16/2438/01 Rev B, shall be implemented prior to first use of the development hereby approved. The bund and fencing shall thereafter be retained for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of safeguarding existing levels of residential amenities.

7. All retained trees shall be protected in accordance with the submitted Tree Protection Plan (Dwg No. MY58/AKW/TREE/03) and BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fencing shall be erected prior to commencement of development, including ground levelling, site preparation and construction. The fence shall be maintained throughout the duration of the development and shall only be moved or removed with the prior approval of the Local Planning Authority.

Reason: In the interest of safeguarding biodiversity and existing trees in the locality.

Informatives

1. The Local Planning Authority (LPA) in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.