

Development Management Report

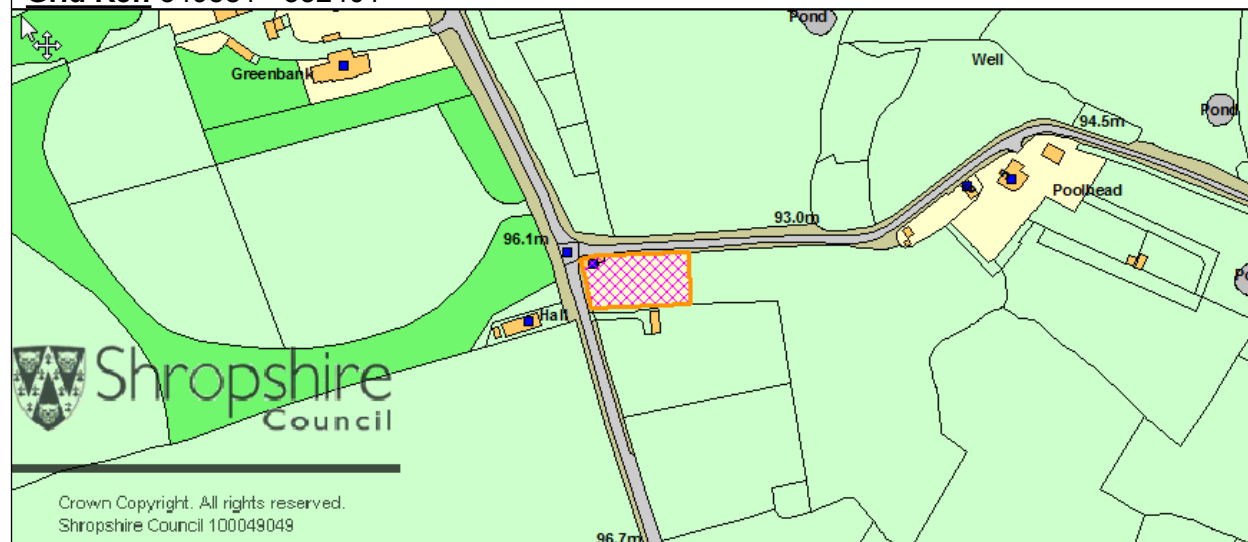
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Summary of Application

<u>Application Number:</u> 17/02628/FUL	<u>Parish:</u>	Wem Rural
<u>Proposal:</u> Application under Section 73a of the Town and Country Planning Act 1990 for the installation of replacement windows		
<u>Site Address:</u> The Primitive Chapel Pool Head Wem Shrewsbury Shropshire		
<u>Applicant:</u> Mr D Hughes		
<u>Case Officer:</u> Jane Preece	<u>email:</u> planningdmne@shropshire.gov.uk	

Grid Ref: 349581 - 332401



Recommendation:- That planning permission be refused for the following reason:

It is considered that the replacement of the existing windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and further that the replacement windows that have been installed are incongruous windows of inappropriate design, proportions and materials. The Local Planning Authority considers this has served to significantly detract from the character of the building, harming its significance and diminishing its' value as a local heritage asset. The application is unsupported by a Heritage Assessment to demonstrate or provide justification otherwise. On balance, therefore, the application is considered contrary to adopted planning policies CS5, CS6 and CS17 of the Shropshire Core Strategy; MD2, MD7(a) and MD13 of Shropshire SAMDev Plan and the Supplementary Planning Document on the Type and Affordability of Housing, together with the national guidance set out in section 12 and paragraph 135 of the NPPF.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission in retrospect under Section 73a of the Town and Country Planning Act 1990 for the installation of four replacement, windows within a former Primitive Methodist Chapel building.
- 1.2 The replacement windows have been fitted within the existing arched apertures; two within the front (south facing) elevation and two within the rear (northern roadside) elevation. The replacement windows are of double glazed UPVC and are of a light oak finish. They have replaced the original windows, which were of metal frames and white painted.
- 1.3 The Chapel was converted to residential use by virtue of planning permission reference N/03/406/WR/809, granted 18th December 2003.
- 1.4 Condition 3 of planning permission N/03/406/WR/809 required the development to be carried out in accordance with the approved plans and specifications. The approved plans specifically showed and specified the retention, repair and re-glazing of the existing metal window frames.
- 1.5 Condition 14 of planning permission N/03/406/WR/809 reads as follows:

'To preserve and enhance the historic character of the building and in the interests of visual amenity, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 or as may be re-enacted or amended, no enlargements, improvement or other alteration to the dwelling as normally permitted under Schedule 2, Part I, Classes A, B, C, D or H shall take place without the grant of an additional planning permission by the Local Planning Authority.'
- 1.6 The replacement windows have been installed without the grant of planning permission and therefore are in breach of condition 14 quoted above. Hence the

current application.

- 1.7 In support of the application the applicant has submitted photographs of the replacement windows and a covering letter. The letter explains that having only moved into the property in March this year, they proceeded to change the windows because the existing were '*decayed and unsecure*' and '*inadequate*' in terms of '*sound proofing and heat retaining qualities.*' They decided on what they considered a '*sympathetic design to compliment the building*', in an oak finish and of upvc; having looked at the locality and decided many '*other properties in the location*' had '*upvc windows*'. They were unaware that consent was required to install the replacement windows, until a neighbour questioned if they had to apply for permission to change them. Having consequently contacted Development Management for advice, they are now looking to resolve the situation with the current application.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site lies within the parish of Wem Rural and occupies a countryside location for planning policy purposes.
- 2.2 The property has no immediate neighbours and in this regard is relatively isolated from other built development. The former chapel building sits at a roadside junction, being immediately bounded by the local highway to the north and west. As such the chapel building occupies a visually prominent location adjacent to the passing rural roads.
- 2.3 The Primitive Methodist Chapel was built in 1864. It is of solid brick construction under a slate roof. The original windows were of metal frame, with small panes, and white painted. The planning consent permitted in 2003 allowed for the conversion of this small former and single chapel to a 2 bed dwelling (involving the installation of a new suspended timber floor and staircase). As referred to in paragraphs 1.4 and 1.5 above under the conditions attached to the planning permission the existing windows were to be retained, repaired and re-glazed.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The officer recommendation of refusal is contrary to the views of the Parish Council, who support the application (no reasons for support have been given by the Parish Council). The views of the Local Members have therefore been sought. Councillor Mellings has consequently requested that the application be considered by the Planning Committee for the following reasons:
- 3.2 '*I would argue that the replacement windows do not cause significant harm or loss to the building as a former chapel. The building is located in a relatively isolated location and the distinctive shape, character and nature of the building is unchanged by the new windows. They are of a sympathetic design and whilst upvc – do not look out of place within the building. In fact to a degree they compliment it in a way the old windows did not. This has been reflected in the positive comments that have been expressed by local people both in response to the application to direct to the applicant, The building is not therefore compromised nor diminished and retains its original shape so it is clear it is a*

former chapel. Neither is the building listed nor within a conservation area so has no harmful impact on the surrounding area.

Para 4.8 of CS6 refers to sustainable design reflecting peoples changing needs over time and requires consideration of different needs. The new windows certainly provide better sound and heating insulation compared to the old windows again without compromising the appearance of the building as a former chapel.

Para 135 of the NPPF requires a balanced judgement relating to its significance and scale of harm / loss. Therefore, given its location, scale and the local support, I would suggest that the changes are entirely consistent with the policies within the Core Strategy – especially CS6 and the appropriate parts of the NPPF. On this basis, it would be appropriate for Committee to consider and determine the issue.'

- 3.3 The matter has consequently been referred to the Chair/Vice Chair of the North Planning Committee in consultation with Principal Officers. It has been agreed that the application should be presented to the Committee for consideration as the case raises significant issues in relation to the buildings' character and the building is a non-designated heritage asset.

4.0 **Community Representations**

4.1 **Consultee Comments**

- 4.1.1 **SC Conservation** – The replacement of windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and replacement with incongruous windows of inappropriate design, proportions and materials. This has served to significantly detract from the character of the building, equating to less than substantial harm to its significance as a heritage asset.

The application is therefore considered contrary to policies CS5, CS6 and CS17 of the SC Core Strategy, and MD7(a) and MD13 of SC SAMDev. In addition, as the application affects a non-designated heritage asset, para 135 of the NPPF is relevant in this instance. This required a balanced judgement to be made taking into account the significance of the non-designated heritage asset and the scale of harm/loss. Given that the works undertaken have resulted in the loss of principal architectural features, it is considered that the scale of loss is high, and therefore this should be given substantial weight in any decision.

4.2 **Public Comments**

- 4.2.1 **Wem Rural Parish Council** - At the meeting of Wem Rural Parish Council held on 4 July 2017 it was resolved to support the application.
- 4.2.2 **Public representations** - Three representations of support has been received:

- The new windows look wonderful/enhance the appearance of the

property/are a great improvement and have been very thoughtfully done.– well befitting of an old property and much better than previous ones.

- The property is not listed.
- The old windows were cheap & nasty when the chapel was built/ugly & totally inappropriate, actually damaging the property because they caused damp.
- The colour & style of the windows have been sensitively chosen to blend in and harmonise with the property.
- The new windows are thermally efficient & should substantially improve the energy rating of the property.
- To remove the windows is a waste of materials & would represent a needless increase in carbon footprint.

NB: The comments of consultees and contributors are available to read in full via public access on the Council's website.

5.0 THE MAIN ISSUES

- Background
- Policy and principle of development
- Detail, design and impact on non-designated heritage asset
- Other material considerations

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 The application seeks retrospective consent for the replacement of 4 windows to the north and south elevations of the Primitive Chapel, Pool Head.
- 6.1.2 The building is a former Primitive Methodist Chapel of 1864, which is now in use as a single residential dwelling, consent having been granted for change of use in 2003 and permitted development rights for alterations having been removed by planning condition.
- 6.1.3 Constructed in brick under a natural slate roof, the overall form, layout and design of the chapel is typical of many rural vernacular non-conformist places of worship, constructed during the 'golden age' of Chapel building during the mid C19, as a result of the increase in non-conformist worship, particularly in rural and industrialised areas. The simple and understated classical design and architectural detailing of the building is typical of chapel buildings of the period. Due to its architectural, historic and communal significance, and its contribution to the distinctive rural character of the area, the building is considered a non-designated heritage asset, as defined within annex 2 of the NPPF.
- ### 6.2 Policy and principle of development
- 6.2.1 The proposal falls to be considered against the following adopted local planning policies: Shropshire Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), Site Allocations and Management of Development (SAMDev) Plan

policies MD2 (Sustainable Design), MD7(a) (Managing Housing Development in the Countryside), MD13 (The Historic Environment); the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the national policies and guidance set out in the National Planning Policy Framework (NPPF), published March 2012.

- 6.2.2 In combination this above suite of policies require seek to ensure that all development protects and enhances the historic built environment and is appropriate in design, use of materials and character. Extracts from the relevant policies are given below.
- 6.2.3 CS5 (Countryside and greenbelt) – *‘New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. ... Open market residential conversions will only be considered where respect for the heritage asset (as also required by Policy CS17) and high standards of sustainability are achieved; ... In all cases, development proposals should be consistent with the requirements of Policies CS6 and CS17.’*
- 6.2.4 CS6 (Sustainable design and development principles) – *‘To create sustainable places, development will be designed to a high quality using sustainable design principles, ... which respects and enhances local distinctiveness ... This will be achieved by ... ensuring that all development ... Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, ...’*
- 6.2.5 CS17 (Environmental networks) – *‘Development will identify, protect, enhance, expand and connect Shropshire’s environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development: ...*
 - *Protects and enhances the diversity, high quality and local character of Shropshire’s ... built and historic environment, and does not adversely affect the visual, ... [or] ...heritage ... values and functions of these assets, [or] their immediate surroundings ... ;*
 - *Contributes to local distinctiveness, having regard to the quality of Shropshire’s environment, including landscape ... and heritage assets,’*
- 6.2.6 MD2 (Sustainable design) – *‘Further to Policy CS6, for a development proposal to be considered acceptable it is required to:*
 1. *Respond positively to local design aspirations, wherever possible, both in terms of visual appearance and how a place functions, ...*
 2. *Contribute to and respect locally distinctive or valued character and existing amenity value by: ...*
 - ii. *Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and*
 - iii. *Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; ...’*
- 6.2.7 MD7a (Managing housing development in the countryside) – *‘1. Further to Core*

Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located ... residential conversions will be positively considered where they meet ... other relevant policy requirements. In the case of market residential conversions, requiring planning permission, the conversion of buildings to open market use will only be acceptable where the building is of a design and form which is of merit for its heritage/ landscape value, minimal alteration or rebuilding is required to achieve the development and the conversion scheme would respect the significance of the heritage asset, its setting and the local landscape character. ...'

Explanation: '...New housing development will be focused in strategically agreed locations (as set out in Core Strategy Policy CS1) and Community Hubs and Clusters as identified in MD1. Local Plan policies however, also allow ... residential conversions in the countryside as sustainable housing solutions to ... help secure the future of buildings which are valued as heritage assets. ...'

6.2.7 MD13 (Historic environment) – *'In accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by:*

- 1. Ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.*
- 2. Ensuring that proposals which are likely to affect the significance of a designated or non-designated heritage asset, including its setting, are accompanied by a Heritage Assessment, including a qualitative visual assessment where appropriate.*
- 3. Ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting, will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect. In making this assessment, the degree of harm or loss of significance to the asset including its setting, the importance of the asset and any potential beneficial use will be taken into account. Where such proposals are permitted, measures to mitigate and record the loss of significance to the asset including its setting and to advance understanding in a manner proportionate to the asset's importance and the level of impact, will be required.*
- 4. Encouraging development which delivers positive benefits to heritage assets, as identified within the Place Plans. Support will be given in particular, to proposals which appropriately conserve, manage or enhance the significance of a heritage asset including its setting, especially where these improve the condition of those assets which are recognised as being at risk or in poor condition.'*

Explanation

3.131 Whilst this policy is closely related to sustainable design (CS6 and MD2) and the conservation of Shropshire's natural environment (CS17 and MD12) it sets out specific guidance on the protection of Shropshire's historic environment, including the requirements that need to be met for those development proposals

which are likely to have an impact on the significance, including the setting, of a heritage asset.

3.132 Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets. ...

3.133 Non-designated heritage assets include structures, features or deposits with archaeological interest, historic buildings, historic farmsteads, the historic character of the landscape as expressed in the patterns of fields, woods and heathlands and the locally distinctive character of settlements. The latter includes locally derived building materials and the distinctive forms, details and design of buildings. Policy MD2 requires new development to respect, enhance or restore the historic context of buildings. The Shropshire Historic Environment Record sets out Shropshire's non-designated heritage assets.

3.134 Through their contribution to the character of the county, heritage assets play an important role in promoting economic regeneration and growth.

3.135 This policy is based on the following hierarchal approach:

- i. wherever possible, avoid harm or loss to the significance of heritage assets, including their settings;*
- ii. where development proposals can be justified in terms of public benefits which outweigh the harm to the historic environment, provide mitigation measures for any loss of significance to the affected heritage asset, including the setting;*
- iii. where a development proposal results in the partial or total loss of significance to an asset, including the setting, record and advance the understanding of that significance.*

3.136 In order that the degree of impact of a development proposal can be fully assessed it is essential that the significance of heritage assets including their setting, is fully understood. A Heritage Assessment is therefore required for any development proposals which is likely to affect the significance of a heritage asset, including its setting. Where necessary, the Heritage Assessment should include a qualitative visual assessment to show how the proposal affects the heritage significance of its surroundings. Heritage Assessments will be needed for any proposals within or affecting; the historic core of a settlement; a Conservation Area; a Listed Building; a Scheduled Ancient Monument; a World Heritage Site or a Registered Park and Garden; a Registered Battlefield and all non-designated heritage assets.

3.137 The Historic Environment SPD also sets out the level of detail that should be provided in a Heritage Assessment. This will be in proportion to the significance of the heritage asset and the scale of any impacts upon it. ...

Such assessments should be carried out well in advance and must be submitted with the planning application.

3.138 Heritage assets are a finite, non-renewable resource and great care must therefore be taken when determining applications which result in a loss of significance, either partial or total. Proposals adversely affecting either the

significance or setting of heritage assets will therefore be rejected unless the harm to the significance of the asset is outweighed by the public benefits of the proposal. In making this decision the significance of the asset, its level of importance, the degree of impact and opportunities for a viable beneficial use of the asset will be taken into account. Proposals which would result in harm, or a loss of significance, to a designated heritage asset, including the setting, will be determined in line with national policy.

3.139 Where the public benefits of a proposal are deemed to outweigh the loss of significance, measures to mitigate the loss will be required. These may include but are not limited to, design or landscaping measures (in accordance with MD2) and/or the use of appropriate building materials or construction methods. The submission of additional information relating to these for prior approval may sometimes be necessary. In addition, the preparation of a comprehensive record of the asset by a suitable qualified person, in a manner proportionate to the significance of the asset and the impact of the proposal, may be required. A copy of the final report should be deposited in the Shropshire Historic Environment Record within an agreed time period, where it will be made publically accessible. When required a report should also be published in an appropriate manner. Any resulting archive should be deposited with the Shropshire Museum Service, again within an agreed timescale. Further guidance on mitigating measures and the recording of heritage assets is provided within the Historic Environment SPD.

3.140 Shropshire has a rich diversity of heritage assets, which make an important contribution to the county's character and local distinctiveness. Development proposals offer valuable opportunities to enhance the historic environment, including by achieving the aspirations set out within the Place Plans. This may involve improving the condition of heritage assets and their settings, and/or enhancing or better revealing their significance, particularly for those assets recognised as being at risk. Proposals should also seek to increase the connectivity between assets to provide benefits to both the natural and historic environment in accordance with Policy CS17.

6.2.8 Housing SPD – ‘2.27 Core Strategy Policy CS5 sets out the basis for the control of development in the countryside and makes provision for the conversion of suitable rural buildings for employment, residential and other appropriate uses such as community or heritage facilities. ...

2.28 The emphasis of Policy CS5 is on improving the sustainability and resilience of rural communities. There is recognition of the need to manage the nature of development through providing criteria to achieve a quality of development which protects the character and setting of the buildings and the countryside which takes into account environmental considerations. There are specific links between Policies CS5, CS6 and CS17 and additional criteria on sustainability requirements are given as part of Policy CS6 ... Conversion design guidance, such as that produced by English Heritage, will also inform the approach to considering applications.

2.29 Core Strategy Policy CS5 allows conversion of existing buildings that are considered a “heritage asset” into open market dwellings. “Heritage assets”

normally: • pre-date 1950; • comprise traditional materials and building methods; • are of permanent and substantial construction; • are of local significance and add value to the landscape ...'

6.2.9 National Planning Policy Framework (NPPF) – Section 12 Conserving and enhancing the historic environment –

126. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;*
- the desirability of new development making a positive contribution to local character and distinctiveness; and*
- opportunities to draw on the contribution made by the historic environment to the character of a place.*

135. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

6.2.10 Making Changes to Heritage Assets Historic England Advice Note 2 (Feb 2016) – para 15. 'Doors and windows are frequently key to the significance of a building. Replacement is therefore generally advisable only where the original is beyond repair, it minimises the loss of historic fabric and matches the original in detail and material. Secondary glazing is usually more appropriate and more likely to be feasible than double glazing where the window itself is of significance. As with the building as a whole, it is more appropriate to deal with timber decay and similar threats by addressing the cause of the decay rather than treating the symptoms but where remedial works are shown to be necessary, minimum interference to achieve reasonable long term stability is the most sustainable approach. ...'

6.2.11 The main issue therefore is the impact of the replacement windows on the character and appearance of the host building. The building is considered to be a non-designated heritage asset and therefore of some historical, architectural and visual importance within the local area.

6.3 **Detail, design and impact on non-designated heritage asset**

6.3.1 The Councils' Historic Environment Team has been consulted on the application. Regard having been given to the relevant planning policies, the Conservation Officer has consequently submitted the following comments, which are quoted in full, in relation to the detail, design and impact on character:

6.3.2 *'In principal the sensitive adaptation and re-use of redundant places of worship is*

generally supported from a conservation perspective, where such buildings have become redundant from their original function and are practically capable of re-use, as this can secure their longer term conservation as important historic elements within the landscape/street scene.

- 6.3.3 *An approach to conversion (and continued use) is recommended which utilises the existing layout, form, fenestration and architectural detailing (both internally and externally) as far as possible, to ensure the ecclesiastical character of such buildings is not diminished through inappropriate and incongruous alterations and additions. As such, permitted development rights for a number of alterations (such as extensions and replacement windows, doors and other features) were removed when consent was granted for conversion, to provide an extra level of planning control to ensure any changes are appropriately managed.*
- 6.3.4 *The building previously featured its original rounded arched multi-pane cast iron windows featuring extremely fine glazing bars, the classical design of the original windows formed a major element within the overall design of the chapel, and made a significant contribution to its character and significance as a heritage asset.*
- 6.3.5 *The existing windows (which were installed without the benefit of prior consent) are of substantially thicker proportions featuring storm proof opening casements, and in terms of design make no reference to the fine classical design and proportions of the original windows. The windows are also constructed in uPVC, and are finished in a particularly artificial and synthetic mock timber finish. The overall design, materials and finish of the replacement windows are considered to be inappropriate, and represent an incongruous alteration which has served to significantly detract from the character of the building.*
- 6.3.6 *The issues with sound and thermal efficiency with the original windows are fully appreciated, however it is considered that the desired improvements could successfully be achieved by other means, either through sensitive refurbishment, draft stripping and secondary glazing of the original windows, or appropriately designed replacements.*
- 6.3.7 *It would appear that a stainless steel flue has also been installed on the western gable, which is considered to be a further incongruous and alien addition, and does not appear to benefit from formal consent- such services should be routed internally where possible.*
- 6.3.8 **Recommendation:** *The replacement of windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and replacement with incongruous windows of inappropriate design, proportions and materials. This has served to significantly detract from the character of the building, equating to less than substantial harm to its significance as a heritage asset.**
- 6.3.9 *The application is therefore considered contrary to policies CS5, CS6 and CS17 of the SC Core Strategy, and MD7(a) and MD13 of SC SAMDev. In addition, as the application affects a non-designated heritage asset, para 135 of the NPPF is relevant in this instance. This required a balanced judgement to be made taking*

into account the significance of the non-designated heritage asset and the scale of harm/loss. Given that the works undertaken have resulted in the loss of principal architectural features, it is considered that the scale of loss is high, and therefore this should be given substantial weight in any decision.

- 6.3.10 NB*: Within the Conservation Officer recommendation in paragraph 6.3.8 above Members may note the use of the phrase '*less than substantial harm*' in relation to the significance of the heritage asset. To expand upon the use of the phrase, at paragraph 132 the NPPF states that '*Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.*'
- 6.3.11 The NPPF goes on to refer to harm as either '*substantial harm*' or '*less than substantial harm*'. Further guidance is given in the NPPG, which advises at paragraph 017 that '*In general terms, substantial harm is a high test, so it may not arise in many cases*'. For example '*partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm*'.
- 6.3.12 Bearing the assessment of '*substantial harm*' in mind, the Council's Conservation Officer considers that it would be difficult to argue that harm equates to substantial harm in this case, as the works have not resulted in a total or fundamental loss of significance such as partial demolition or significant re-configuration. However, it is the view of the Conservation Officer that the removal of the windows has resulted in the loss of principle architectural features, and therefore it is considered that the impact is at the higher end of '*less than substantial harm*' in this case.
- 6.4 **Other material considerations**
- 6.4.1 It is a requirement of planning law that planning applications be determined in accordance with the development plan, unless other material considerations indicate otherwise. Notwithstanding the fact that there is some local support for this proposal from neighbours, the Parish Council and the Local Member, it is the view of the Council's professional officers that the proposal is significantly harmful to the character of the host building. On this basis the proposal is considered to be non policy compliant by officers. As such it follows that officers consider that the development plan indicates that the proposal should be refused.
- 6.4.2 No other material planning considerations have been brought to the attention of officers that would indicate otherwise. Indeed, on the contrary officers are aware of an appeal dismissal that reinforces the case for refusal. Appeal decisions are material planning considerations. Appeal reference APP/C2708/D/14/2227808 (dated December 2014) raised similar issues to the current case in that the proposal involved replacement uPVC windows in an unlisted agricultural conversion outside a conservation area. The appeal Inspector raised particular concerns about the heavy profile and bulky appearance of the new upvc windows; their colouration and the arrangement of the lights and panes all in comparison with their traditional counterparts and all detracting from the intrinsic character and traditional appearance of the original building. At paragraphs 9 and 10 of the appeal decision the appeal Inspector concluded:

6.4.3 9. *‘Overall, I conclude on the main issue that the proposal would materially harm the character and appearance of the host building and the local area. Accordingly, it conflicts with Policy H20 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan. This policy aims to ensure that development respects the original building with particular regard to design, proportions and materials and has no adverse effect on the street scene.*

6.4.4 10. *The appeal scheme would also be contrary to National Planning Policy Framework, which aims to ensure that planning achieves a high quality of design and that development responds to local character and adds to the qualities of an area.’*

6.4.5 A copy of the referenced appeal decision is appended to this report as Appendix A.

7.0 **CONCLUSION**

7.1 Officers conclusion on this matter is that the application should be refused for the following reason(s):

7.2 It is considered that the replacement of the existing windows has resulted in the loss of major features within the overall design and distinctive architectural style of the building, and further that the replacement windows that have been installed are incongruous windows of inappropriate design, proportions and materials. The Local Planning Authority considers this has served to significantly detract from the character of the building, harming its significance and diminishing its' value as a local heritage asset. The application is unsupported by a Heritage Assessment to demonstrate or provide justification otherwise. On balance, therefore, the application is considered contrary to adopted planning policies CS5, CS6 and CS17 of the Shropshire Core Strategy; MD2, MD7(a) and MD13 of Shropshire SAMDev Plan and the Supplementary Planning Document on the Type and Affordability of Housing, together with the national guidance set out in section 12 and paragraph 135 of the NPPF.

7.2 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 officer report and referred to in the reasons for refusal.

7.3 As noted within paragraph 6.3.7 above, *‘... a stainless steel flue has also been installed on the western gable, which is considered to be a further incongruous and alien addition, and does not appear to benefit from formal consent ...’* As such the flue is currently also unauthorised. The Conservation Officer reference to the flue as an *‘incongruous and alien addition’* indicates that it would also be unlikely to be supported if an application to seek consent for its retention in retrospect was to be submitted.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

MD13 - Historic Environment

Settlement: S17 - Wem

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

NS/03/00450/FUL Change of use of former Methodist Chapel to form one dwelling; formation of garden/amenity area; installation of cess-pit; formation of vehicular accesses CONAPP 18th December 2003

10/02797/FUL Erection of an agricultural storage and lambing building GRANT 25th August 2010

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)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Pauline Dee Cllr Chris Mellings
Appendices APPENDIX A – Appeal decision

Appendix A

Appeal Decision

Site visit made on 4 December 2014

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 December 2014

Appeal Ref: APP/C2708/D/14/2227808

1 Holmefield Farm, Sutton-in-Craven, Keighley, Yorkshire BD20 8DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Miss Susan Needham against the decision of Craven District Council.
- The application Ref 66/2014/14739 was refused by notice dated 15 August 2014.
- The development proposed is to replace – ground floor window with same size french doors. Doors will open onto private garden. Window is now timber frame; replacement French door will be a white plastic uPVC frame – the plastic frame will be specially made to fit the current size of the original window.”

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the host building and the local area.

Reasons

3. The appeal property is a dwelling that forms part of one of a small group of converted rural buildings that lie on the outskirts of Sutton-in-Keighley. In my opinion, the residential conversion of the building to which No 1 belongs has essentially and successfully retained the simple form and traditional appearance of a former farm building. The consistent use of traditional external materials within the building including timber-framed windows and doors reinforces this impression. To my mind, this building positively contributes to the semi-rural character of the local area.
4. The proposal is to replace a large ground floor painted timber-framed window in the side elevation with French doors, which would include white uPVC frames. Compared to the existing window, which has two top hung opening lights set over two fixed lights and an arched top section, the new replacement would have two full-length side hung glazed units that would open outwards onto an external paved area. The proposal would be tailor made to fit into the existing aperture and so there would be no change to the size or shape of the opening in the wall.

5. Due to the heavy profile of the new uPVC window frames, which would be thicker than their timber counterparts, I consider that the proposed replacement would have a bulky appearance in the side elevation of the main building. The plastic quality of the uPVC frames, prominent by their white colour, would be discernible at some distance from Holme Lane on the approach to the site and at close range from the adjacent car park. In these views, the upper part of the new French doors, projecting significantly above the adjacent stone boundary wall, would be evident. In my judgement, the stark and mechanical finish of white uPVC would draw the eye given the sharp contrast with the timber-framed windows in the remaining elevation and detract from the intrinsic character of the appeal property.

6. In addition, the arrangement of the new windows with two long fixed lights would noticeably differ to the existing window, which is divided roughly equally into four equal-sized panes. The new arrangement would alter the proportions of the window with a thick vertical central dividing uPVC section. That the proposal would be visually read with the adjacent timber-framed window that serves No 3 would accentuate its harmful visual impact because it would draw attention to the inconsistent window design and external materials in the main building.

7. As a prominent elevation in the street scene and given that the traditional style of the building and others in the same group has been retained, it would seem appropriate to require the use of appropriate external materials to ensure that the character and appearance of the building is not unduly eroded. For the reasons given, that would not be the case with the proposal before me. While I recognise that similar style doors have been fitted in the opposite side elevation to the proposal to serve a neighbouring dwelling, these have painted timber frames and so are not directly comparable with the appeal scheme.

8. I saw that several buildings in the vicinity of the site have been fitted with a variety of replacement windows and doors including white uPVC. Although most of these properties are visible from the road, uPVC appears not to be locally distinctive nor is it a type of material that is defining characteristic of older buildings in the area. Furthermore, in my judgement the use of uPVC windows and doors has mostly had a dominant effect in the appearance of the host building and diminished the visual quality of the street scene of which it forms part. These examples do not, therefore, provide a sound justification for the proposal. In any event, each case should be considered on its own merits, which I have done in this instance.

9. Overall, I conclude on the main issue that the proposal would materially harm the character and appearance of the host building and the local area. Accordingly, it conflicts with Policy H20 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan. This policy aims to ensure that development respects the original building with particular regard to design, proportions and materials and has no adverse effect on the street scene.

10. The appeal scheme would also be contrary to National Planning Policy Framework, which aims to ensure that planning achieves a high quality of design and that development responds to local character and adds to the qualities of an area.

11. With regard to other matters, I see no reason why well-designed and maintained timber windows should be more expensive, less clean or less durable than their uPVC counterparts. By providing an additional exit from the existing dwelling, especially as an escape in an emergency, the proposal would have obvious safety benefits. However, these considerations do not outweigh the harm that I have identified.

12. The size of the aperture would remain the same and so I doubt that the proposal would, in itself, lead to a significantly greater level of overlooking of the neighbouring property than would otherwise be the case. With direct access provided from the main dwelling, the new French doors might result in the greater use of the external area onto which they would face. However,

the use of this external space is not dependent on this access arrangement and the potential for noise and general disturbance is not necessarily proportional to the likely level of use. Consequently, I consider that there would be no material harm to the residential amenity of neighbouring occupiers.

Conclusion

13. Nevertheless, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR