

Development Management Report

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 17/04401/FUL	Parish: Kinnerley
Proposal: Erection of an affordable dwelling with detached garage/store and formation of vehicular access.	
Site Address: Land South East Of Rosedale Maesbrook Oswestry Shropshire SY10 8QN	
Applicant: Mr John Davies	
Case Officer: Oliver Thomas	email: planningdmc@shropshire.gov.uk

Grid Ref: 331346 - 321167



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Recommendation:- Refuse for the following reason:

1. Although the applicants have demonstrated a strong local connection and a need to reside in the locality, it is not considered that the overall scale and design of the dwelling's associated outbuildings and plot layout/shape is appropriate in the manner proposed. The scale of the proposed garage is considered to be too significant for its intended purpose, being both disproportionate and inappropriate to the sites context and surroundings. Additionally the plots irregular shape and semi-isolation from any neighbouring residential boundaries results in a plot that would be considered as sporadic and failing to reflect and sympathise with the existing built environment, having adverse detriment to the landscape setting and character. The development as proposed would result in direct conflict with the provisions set out in Shropshire Council Types and Affordability SPD, having regard to scale and design, as well as Core Strategy Policy CS6, CS11, SAMDev Policy MD2, MD7a and the provisions set out within the NPPF.

REPORT**1.0 THE PROPOSAL**

- 1.1** This application is seeking full planning permission for the erection of a single affordable dwelling and detached garage/store, to include the formation of a new access point, in accordance with the Councils single plot exception scheme.
- 1.2** Prior to the submission of this application, the applicants submitted a Pre-application enquiry for the currently submitted proposal (planning ref: PREAPP/14/00615) in which it was considered that the principle of an affordable dwelling in this location would be considered acceptable.

2.0 SITE LOCATION/DESCRIPTION

- 2.1** The application site forms part of a larger agricultural field, which extends to some 5 acres and is currently used as grazing land for the applicant's livestock. The field lies within the small, rural and dispersed settlement of Llywn-y-go, south of Maesbrook. The site lies south of an unclassified highway, behind a high boundary hedgerow providing visual separation between those neighbouring properties to the north, to the west of the larger field is Rosedale – a Grade II listed dwelling, with additional residential dwellings further afield to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1** Applications where the Parish Council submit a view contrary to Officers refusal based on material planning reasons that cannot reasonably be overcome by negotiation or the imposition of planning conditions and the Area Manager/Principal Planning Officer in consultation with the committee chairman/vice chairman and the Local Member agrees that the Parish Council have raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

- 4.1 - Consultee Comments**

4.1.1 SC Drainage (SuDS) – No objections subject to informative.**4.1.2 SC Highways Authority – No objections subject to conditions.**

The proposed development seeks to erect an affordable dwelling on land to the south east of Rosedale, Maesbrook. The development site is accessed directly from an unclassified single track no through road. The proposed new access will be located on the outside of a bend and the visibility splays proposed are considered acceptable given the local circumstances. The first few metres of the new vehicular access should be given to a sealed surface so as to prevent re-location of loose material onto the highway.

4.1.3 SC Affordable Housing – In support.

Mr and Mrs Davies have demonstrated housing need, strong local connections, support and a need to live in the local area. However, due to issues of availability and affordability within the local parish areas they are unable to meet their own housing need without assistance through this policy.

4.1.4 SC Ecology – No objections subject to conditions.

Having read the above application and the supporting documents, including the Extended Phase 1 Habitat Survey prepared by Susan Worsfold (May 2015) a number of conditions and informative are recommended to ensure the protection of European Protected Species.

4.1.5 Kinnerley Parish Council – In support.

No comments provided.

4.1.6 Cllr Mat Lee (Local Ward Member for Llanymynech) – Committee determination request.

“1. The policy status of Llwyn-y-Go would need to change from open countryside to a Community Cluster, in order to allow general ‘infill’ housing development in the future.

There is no sound reasoning for such a change. The dispersed nature of the settlement and its lack of any services or facilities, would make it a most inappropriate location to allow such development, which would dramatically alter the existing character and appearance of the settlement. Which would mean any development in the future would be difficult.

2. The Parish Council supports the current position of the plot, which follows the very clearly ‘dispersed’ pattern of development in Llwyn-y-Go. A pre-application enquiry submitted to the Council, was supported by the Planning Officer dealing with the case at that time.

3. The neighbour to the west has already objected to the siting of the dwelling in its current position. Bringing it closer will no doubt generate further objections – not

only from the current objector, but perhaps also from the property opposite, who currently have made no objection to the dwelling in its proposed position.

4. The Highways Department has raised no objection to the access, as proposed, subject to the following condition.

Prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4 x 45 metres to the nearside carriageway edge shall be provided to each side of the access where it meets the highway..... Reason: To ensure the provision of adequate visibility in the interests of highway safety.

If the plot is brought further to the west, it will bring the proposed highway access much closer to the bend to the west. The Applicants believe that an access at this point would be unsafe.

I believe these considerations are sufficient to send the application to the planning committee.

If you require anything else off myself please don't hesitate to contact me.”

4.2 - Public Comments

4.2.1 One public representation neither supporting or objecting to the proposal was received, with its material considerations being summarised as follows;

- Adjacent landowner has a right of access across the western side;
- Llywn-y-go is designated open-countryside within the adopted development plan, so concerns over infill are unreasoned.

4.2.2 One public representation objecting to the proposal was received, with its material considerations being summarised as follows;

- Proposed development will have significant impact upon neighbouring amenities.
- Loss of privacy and overlooking, due to topography of site and orientation of dwelling;
- Increase in vehicle movements will adversely impact upon highway safety;
- Proposed garage ridge line is unacceptably high, resulting in an overbearing outbuilding.
- Placing of window/door openings raises concerns over privacy, as rear doors are shown as having direct sightlines into neighbouring garden spaces.
- The dwellings external appearance and construction materials are not reflective of its immediate setting.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Impact on amenities
Highways and access issues
Drainage issues
Ecological issues

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically, Policies CS1, CS3, CS4, CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy and MD1, MD3 and MD7a of the SAMDev Plan state that new open market housing will only be permitted on sites within market towns, other ‘key centres’ and certain named settlements (‘Community Hubs and Clusters’) as identified in the SAMDev Plan. Isolated or sporadic development in open countryside (i.e. on sites outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.

6.1.2 One of the exceptions mentioned under Core Strategy Policy CS5 and SAMDev Policy MD7a is where named individuals with strong local connections and who are in demonstrable housing need wish to build their own ‘affordable’ house. Detailed guidance on this initiative, including definition of the terms ‘strong local connections’ and ‘housing need’, can be found in the Type and Affordability of Housing Supplementary Planning Document (the SPD). As is required the Housing Enabling team (Affordable Housing) are satisfied that the policy requirements are met, this clarifies the council’s position in regards to the local connection, in response to the public representations received. Any permission granted would be subject to prior completion of a legal agreement to control both initial and future occupancy and restrict the resale value.

6.1.3 Returning to the issue of location, even affordable homes on rural exception sites are required by the SPD to be within or adjoining “recognisable named settlements”. Further, the SPD explains that because a settlement is characterised in no small part by the relationship between its various properties, its limits are defined by where that relationship peters out. This varies from settlement to settlement, depending on both the number of houses and their proximity. For example, a site a short distance from a scattered or loose-knit settlement may be considered to adjoin it, whereas a site a similar distance from a tightly clustered or nucleated settlement would not.

6.1.4 The development site forms a parcel of agricultural land that lies within the small rural settlement of Llywn-y-Go, a recognisably named settlement south of Maesbrook. The development site is situated with a group of properties that are seen as forming part of the overall settlement. However, it is acknowledged that the settlement is relatively isolated and secluded from principle services and facilities, with relatively poor network links. Under local policy, Llwyn-y-Go has been designated as open-countryside, where new open-market housing development is resisted. Recognising the need to provide rural rebalance and in supporting local people, the principle of development is both established and supported due to the considerable resultant social benefits.

6.2 Siting, scale and design of structure

6.2.1 The development site sees the development of current agricultural land in the applicant’s ownership, adjacent to the northern highway and in close proximity to a number of neighbouring properties. Following negotiations on those originally

submitted plans, an amended site plan has been submitted to show an irregular shaped plot that measures some 950sqm, below the maximum 0.1ha (1000sqm). The plots irregular shape results in a boundary that spans a large portion of the highway boundary, beginning to the west and close to the neighbouring Rosedale (a Grade II listed property) and extending some 56m along the highway edge, with access provided through a newly formed eastern access point, mid-point along the field and intended to serve a yet-to-be constructed agricultural building (15/04800/AGR), in the north-eastern corner of the field.

- 6.2.2 A key requirement for single plot exception schemes is that they do not constitute isolated or sporadic development and the development must reflect the character and scale of the settlement. Whilst it is acknowledged that Llwyn-y-go is a small cluster of housing, it is characterised by smaller groups of adjoining residential properties, as such it was requested that the site plan be altered to physically adjoin the eastern boundary of Rosedale – this was requested at pre-application stage also. This was resisted by the applicants for amenity issues and due to the need to leave clear a 6m passage adjacent to the western boundary, to allow agricultural equipment to access agricultural land to the south and that does not have direct access onto the highway network. Whilst this is not a material consideration and also with the option of re-locating this access further east, the Officer was willing to compromise and suggested leaving a buffer of 8m from this boundary to serve this purpose. Despite the western point of the plot starting at this location, it was expected that the plot would provide a regular shape that followed an 8m buffer to its southern most point as this would ensure that the proposed dwelling would not be read as isolated or secluded and not what was subsequently submitted.
- 6.2.3 Resultantly, the Officer is unable to support the current plot location and layout for the concerns expressed above. The applicant justified their rationale behind the plot layout; however, they raised no material justifications with the majority being for the applicants gain only. By grouping housing together, instead of dispersed, the character of the immediate residential context would be enhanced and provide a stronger sense of community. Instead, the current proposal results in their being breaks in the pattern of development, with housing interspersed along agricultural land and detrimental to the overall landscape character and setting.
- 6.2.4 On-site, the proposed dwelling has been sited to the far west and slightly set back in the plot, to allow sufficient parking/turning areas to its front. The dwellings lies facing the highway, positioned at a slight angle to follow the topography of the land. The dwelling is of traditional construction and appearance, reflective of a stone cottage and 1.5 storeys in height, in accordance with the SPD requirements the internal floorspace measures some 99.76sqm across two floors and provides a modest 3 bedroomed dwelling. The dwelling is to be constructed from a range of materials, including local stone cladding to its frontal elevation, with facing brickwork occupying the other elevations with contrasting brick quoins to all its joins, all under a natural slate roof, providing a dwellings that is sympathetic to its rural location.
- 6.2.5 The submitted site plan shows the erection of a large detached double garage perpendicular to the dwelling, providing a double bay garage, with a covered storage area, internal staircase and accommodation/storage space within the

eaves. In accordance with the SPD, detached garages/outbuildings are considered appropriate, but only where they are suitably designed and appropriate to their context. The proposed detached garage, similar to the dwelling, is traditionally designed and constructed – timber framed and clad building under a dual pitched roof. However, its scale is considered disproportionate for the plot and size of dwelling, having a footprint of some 68qm, with an internal floorspace of 64sqm across the two floors – footprint is larger due to external storage and overhanging eaves.

- 6.2.6 Whilst certain aspects of the scheme are acceptable, overall the siting, scale and design of both the plot and development within the site are considered unacceptable in complying with the stringent controls afforded through the SPD. Affordable housing is considered as exception sites and must be treated as such, instead the submitted scheme is unable to seamlessly reflect the character of the area, being inappropriate for its location, whilst providing a disproportionately large detached garage. So much so, that approval cannot be granted on this basis, with failed negotiations and concerns unable to be dealt with through the imposition of conditions.

6.3 Impact on amenities

- 6.3.1 The proposed two storey dwelling is located sufficiently far enough for there to be no concerns over impact on residential amenities of those surrounding neighbouring properties. Despite the objection comments received, the separation distances between its closest neighbours are some 60m and 80m, north and west respectively, ensuring that there will be no unacceptable levels of overlooking or loss of privacy. Furthermore, measures have been adopted to further protect amenities of neighbouring resident and future occupants, through the orientation of the dwelling, the use of boundary treatments and outbuildings obscuring views.
- 6.3.2 By nature, the creation of a domestic dwelling in this rural, countryside location will have some visual impacts; however, these are not considered too severe so as to raise concern. The dwelling will be partly screened by the existing high highway hedgerow, being retained, its proximity to neighbouring dwellings further minimises its visual impacts as the introduction of domestic paraphernalia will not appear isolated. The submitted site plan shows additional attempts at softening its visual impact through the introduction of an orchard to the west of the plot and minimal un-landscaped garden space.
- 6.3.3 As mentioned, the western neighbouring property, Llywn-y-Go Farm, is Grade II listed, with the proposed development having the potential to impact on this designated heritage assets setting and character. The proposal therefore has to be considered against Shropshire Council policies CS6, CS17, MD2 and MD13 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guidance and section 12 of the National Planning Policy Framework. Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required by Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990. Due to the separation distances, the use of boundary treatments and with a sensitively designed dwelling the Officer is satisfied that there will be minimal harm to the designated heritage asset.

6.4 Highways and access issues

- 6.4.1 The proposal to construct a new affordable dwelling and detached garage see the formation of a new domestic access point to the sites eastern side. This access point is served directly from an unclassified single track, no through road, located on the outside of a bend the site is able to provide visibility splays that are acceptable given the immediate conditions and circumstances. However, in order to meet current highway standards, the first few metres of the new vehicular access should be given to a sealed surface so as to prevent re-location of loose material onto the highway.
- 6.4.2 The access point then leads on to a private parking and turning area, laid in gravel and able to provide adequate parking for 3 vehicles with sufficient manoeuvrability - the parking area will also serve the proposed double bay garage. As mentioned, the proposed access is intended to serve an agricultural building that has not yet been constructed, as such once leaving the highway the access meets an area of standing of which the dwelling is served to the west, access to the field to the south and branching off eastwards is a track serving the proposed agricultural building, with all three access routes having gates installed.
- 6.4.3 It must be noted that as this agricultural building is yet to be constructed, it holds no weight whatsoever in the determination of this application, additionally the proposed description is for an affordable dwelling and must only be treated as such. Whilst additional provisions might be advantageous to the applicants, the Officer can only consider those pertinent to the construction of an affordable dwelling. Notwithstanding this, the proposed access point and provision of parking and turning is considered acceptable from a highway perspective.

6.5 Drainage issues

- 6.5.1 The submitted site plan suggests that the proposed dwelling will be served by a newly installed biodisc treatment plant for the removal of foul waste, this is shown beyond the hedgerow enclosure, but has been included within the applicants red-line edge for maintenance purposes. Additionally, surface water will be directed to soak pits, with the applicant willing to install measures of sustainable water management – water butts and permeable surfacing for the parking and turning areas. All aspects of drainage have been confirmed by the Councils drainage engineer as acceptable, subject to conditions.

6.6 Ecological issues

- 6.6.1 Due to the construction of a dwelling on currently undeveloped agricultural land, that includes the removal of agricultural hedgerows, an extended Phase 1 habitat survey accompanies the application. This report, completed by Worsfold and Bowen (May 2015), provides that there was no evidence of protected species being noted on site or at risk as a result of the development. Additionally, the Councils ecologist has confirmed its findings and raised no objections or loss of habitat, subject to conditions.

7.0 CONCLUSION

The proposal to provide a single plot exception, affordable dwelling, whilst acceptable in principle and compliant with the SPD in terms of its location within a recognisable named settlement, is considered unacceptable in terms of siting, scale and design. The plot layout fails to reflect the existing pattern of development,

that would provide a residential unit seen as isolated and sporadic, showing little relationship to the surrounding settlement, having adverse impacts upon the landscape setting and character. Additionally, the proposed detached garage is of a scale that is both disproportionate and inappropriate in relation to the size of the dwelling, the plot and its surroundings. Despite all other matters of the scheme raising little concern, the adverse impacts arisen from those mentioned results in a proposal that fails to comply with the development plan and is unable to be supported. It is therefore recommended that permission be REFUSED.

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 Saved Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

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

CS1 - Strategic Approach

MD12 - Natural Environment

MD13 - Historic Environment

SPD Type and Affordability of Housing

Relevant planning history:

OS/07/15133/FUL Extension to bungalow GRANT 12th September 2007

OS/07/15161/FUL Erection of replacement detached single garage GRANT 20th September 2007

PREAPP/14/00615 Erection of a single plot affordable dwelling PREAIP 7th January 2015

17/04401/FUL Erection of an affordable dwelling with detached garage/store and formation of vehicular access. 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 R. Macey
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Local Member Cllr Matt Lee

Appendices None
