



### Committee and date

South Planning Committee

25 September 2018

## Development Management Report

Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 18/00945/FUL	<b><u>Parish:</u></b>	Morville
<b><u>Proposal:</u></b> Erection of one affordable dwelling with detached 2-bay garage block		
<b><u>Site Address:</u></b> Proposed Exception Site Dwelling NE Of The Barn Underton Bridgnorth Shropshire		
<b><u>Applicant:</u></b> Mr Neil Williams		
<b><u>Case Officer:</u></b> Sara Jones	<b><u>email:</u></b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Grid Ref:** 368100 - 291843



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Contact: Tim Rogers (01743) 258773

**Recommendation:- Refuse**

It is acknowledged that Shropshire has an acute housing need for affordable homes, and in this case the basis of the application is a specific medical need, level access and the applicants desire to remain in the local area due to community involvement. The proposal would however constitute development that is poorly sited in relation to the surrounding built form of this part of Underton and would unnecessarily encroach into the open countryside. As such the site would not reflect the local character of the dwellings in the area by reason of it being set back from the roadside and accessed via a long private drive. Whilst it is noted that this drive serves the existing barn conversion currently occupied by the applicants this dwelling was created through the re-use of an existing farmstead which is part of the countryside landscape and not part of the settlement.

As such the proposal would be contrary to Policy MD7a 'Managing Housing Development in the Countryside' of Shropshire Council's SAMDev Plan, Policy CS5 'Countryside and Green Belt' of the Core Strategy and Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD).

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission for the construction of an affordable dwelling house and detached garage under the Councils Single Plot Exception Site scheme on land north east of The Barn, Underton.
- 1.2 The dwelling would be a single storey building with the accommodation confined to the ground floor and consisting of two bedrooms with en-suite facilities and an open plan sitting room with dining area and kitchen.
- 1.3 The proposed dwelling would have an individual appearance the walls being clad in timber and the roof covered in tiles. The building has been designed to include a significant element of roof, areas of glazing and also traditional features such as a chimney.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located within an area defined by planning policy to be open countryside. It is located to the western side of the settlement of Underton and accessed via a private drive which serves the existing barn conversion known as The Barn. The private drive joins the highway some 500 metres to the east. The site occupies an elevated position, the land falling away to the east.
- 2.2 Permission to convert former agricultural buildings was approved in 1990 (planning permission 90/0399). Planning permission has more recently been refused for the erection of a holiday let dwelling on this site on the grounds that it would not be located in a position within or adjoining a settlement which meets the criteria set out in Core Strategy Policy CS16, and would not be required in connection with any established tourism development at the site. In addition the building was, by reason of its substantial two storey massing, overtly domestic features including projecting

canopy roof over the balcony area and use of a palette of material not in keeping with the local area, considered not to promote or reinforce local distinctiveness and would detract from the visual amenity and rural character of the area, and would therefore be contrary to policies CS6 and CS17 of the Shropshire Core Strategy and also paragraph 60 of the NPPF.

- 2.3 Furthermore an application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use has recently been determined as requiring planning permission as the works required in order to implement the scheme appeared to extend beyond the scope of that allowed under Class Q. The building subject of that application lies to the south of The Barn currently inhabited by the applicants.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Ward Member has requested that the application is determined by the Planning Committee. The Senior Planning Officers in consultation with the chairman and vice chairman have considered this request and concluded that the application does raise issues which warrant consideration by Committee.

### **4.0 Community Representations**

Please Note: All responses are available to view in full on the Council's website. Where consultees have made more than one set of comments, the latest comments are set out first below, in order to show where any earlier concerns have been overcome.

- Consultee Comments

- 4.1 Morville Parish Council - No objections.
- 4.2 SC Affordable Housing – (31.05.2018.)
- 4.2.1 Confirm that Mr Williams and Ms Miles have demonstrated strong local connections to the administrative area of Morville Parish Council. After considering the couples housing needs and personal circumstances, they confirm that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied in terms of eligibility.
- 4.3 SC Affordable Housing – (17.04.2018.) Further information requested.
- 4.4 SC Trees – (06.09.2018.)
- 4.4.1 Confirms that whilst there are still some reservations regarding proximity of the proposed dwelling to offsite trees, the most recent version of the Site Layout Plan SA27652/06 Rev E is considered to be acceptable from an arboricultural perspective.
- 4.4.2 The submitted Arboricultural Report (Old Oak Tree Care, 30th May 2018) proposes suitable measures to be taken to enable construction of the proposed dwelling without causing significant damage or harm to retained and adjacent trees. However, the layout of the scheme has altered since the report was prepared and

thus a new Tree Protection Plan will be required.

- 4.4.3 The scheme requires extensive cut and fill works to provide an elevated platform for the dwelling. Detailed method statements will also be required, with engineering specifications and drawings as appropriate, showing how the proposed development platforms will be achieved on site without encroaching significantly into the root protection area (RPA) of offsite trees Hw12, Hw13, As10, As11 and Ok5. This may entail the use of substantial retaining walls or gabions or other such feature, constructed outside, or with minimal incursion into, the RPA of adjacent trees.
- 4.4.4 Therefore, whilst there is no objection in principle to this application on arboricultural grounds, should permission be granted recommend conditions requiring a final tree protection plan and further arboricultural method statement to be agreed with the Local Planning Authority.
- 4.5 SC Trees – (16.07.2018.)
- 4.5.1 The Arboricultural Report (Old Oak Tree Care, 30th May 2018) identifies the trees within and adjacent the site and assesses their condition and suitability for retention in light of the proposed development. It describes the arboricultural impacts of the proposals and suggests measures for mitigation of damage to retained onsite and adjacent trees.
- 4.5.2 I agree that the most significant tree is the mature oak identified as Ok5 in the tree report, which has been classified as a category A tree in accordance with the criteria of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction. Category A and B trees are generally regarded as being the most suitable for retention and protection during development of a site. Tree Ok5 is located offsite but overhangs the western boundary. I agree that it is important to avoid causing damage or harm to this tree as a result of any approved development taking place. Suitable tree protection measures have been provided in the tree report.
- 4.5.3 I also do not object to the loss of three category C silver birch and a hybrid poplar in order to create a new access point to the site. These trees are within the site and have no wider amenity value.
- 4.5.4 I do, however, disagree with the classification of ash trees As10 and As11 as category C. The tree report records these mature trees as being in good structural and physiological condition and in my opinion they should be more correctly classified as category B. The tree report states that these trees cannot be considered as valuable assets to the area, questioning their longevity due to likelihood of dying from Chalara die-back disease of ash. However, it is not certain that these particular trees will succumb to the disease, nor, if they did, how far into the future that might be. What is known, however, is that heavy pruning of a mature ash tree will stimulate fresh growth that is more susceptible to infection from Chalara. The tree report recommends removing all overhanging branches from these trees up to 5m above ground level, as access facilitation pruning to enable construction of the proposed development.

- 4.5.5 In my opinion it would be preferable to amend the layout, so as to move the proposed dwelling slightly further from the eastern boundary and thereby reduce the need for significant pruning works to trees As10 and As11. First analysis of the Proposed Site Layout plan (SA27652/06 Rev C, Berrys, Feb 2018) suggests that there is scope to move the dwelling slightly diagonally across the site towards the northern corner, taking it out of the canopy spread of ash trees As10 and As11. This would have the additional benefit of also moving the dwelling further away from the mature oak tree Ok5, which would help to ameliorate proximity related concerns (such as excessive shading, overhang, leaf fall, tree safety and overbearing presence) arising from having the front of a single storey dwelling practically touching the canopy of a mature tree.
- 4.5.6 I would appreciate a response to this suggestion to slightly adjust the layout from the applicant or their agent, prior to forming my final opinion on this application.
- 4.6 SC Trees – (30.04.2018.)  
Additional information is requested in order to demonstrate the arboricultural implications of the proposed development.
- 4.7 SC Ecology – (16.08.2018.)  
Recommend conditions and informatives.
- 4.8 SC Ecology – (26.04.2018.)  
Additional information is requested relating to ecology, bats and environmental network.
- 4.9 SC Highways – No objections.  
*“It is considered that it is unlikely that the addition of one dwelling here, will significantly adversely affect highway safety or local conditions.”*  
  
*The access from this proposed property is onto a private road which junctions with the highway, the junction being adequate.”*
- 4.10 SC Drainage – Recommend informative.
- 4.11 - Public Comments  
Site notice displayed/dated 12.04.2018. Expired 03.05.2018.
- 4.12 One representation received from the CPRE  
*“In the instance of this particular case, it is apparent that Shropshire Council’s Housing Enablement Officer has accepted that the eligibility criteria have been met. We are confident that you will be able to rule on a suitable site location in line with the rules within the SPD about site location within named loose-knit settlements.”*  
  
*“We also note the comments made by Berrys on 8 May and their reference to our website. We do indeed fully endorse Shropshire Council’s “single plot” rural exception site rules, which as well as enabling local people to continue to live*

*locally, also help Shropshire Council to reach a higher percentage of affordable housing across the county than would otherwise be the case. As to the housing targets being too high, we are aware that Berrys as a firm submitted nearly 60 separate representations during the latest consultation on the Local Plan Review, mostly endorsing the high housing targets, or higher, currently preferred by Shropshire Council's Planning Policy team."*

- 4.13 One representation received in support of the application.

## **5.0 THE MAIN ISSUES**

Principle of development  
Siting and visual impact considerations  
Residential amenity  
Ecology  
Drainage

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'.
- 6.1.2 Paragraph 11 of the National Planning Policy Framework (NPPF – 2018) builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.3 The National Planning Policy Framework ('NPPF') has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.4 Principally, the site is outside of the development boundary of any Market Town, Key Centre, Community Hub or Cluster, as defined within Shropshire Council's Site Allocations and Management of Development ('SAMDev') Plan. The site is therefore defined in planning policy terms as being within the open countryside.
- 6.1.5 Policy CS5 states that development may be permitted where it constitutes accommodation for an essential countryside worker or named individuals with strong local connections who are in demonstrable housing need. Such developments falling under the criteria of being for an essential rural worker or for affordable housing are subject to prior completion of a legal agreement to control both initial and future occupancy and to cap the resale value. This is discussed further within Shropshire Council's Type and Affordability of Housing Supplementary Planning Document ('SPD').
- 6.1.6 The Council's Single Plot Exception Site policy includes households who occupy accommodation which is deemed to be unsuitable for either their current or

reasonably foreseeable future needs for a medical condition or mobility issue. In this case Shropshire Council's Affordable Housing team confirms that the applicant is eligible for an affordable dwelling under the Council's Single Plot Exception Site scheme.

6.1.7 Amongst other criteria, Shropshire Council's Type and Affordability of Housing SPD prescribes a maximum floor space of 100 square metres for owner-occupied affordable homes on single plot exception sites in order to help to ensure that they remain affordable to other local people in housing need in the future. It is important to note that this limit currently does not include any detached outbuildings such as garages. The SPD also specifies a maximum plot size of 0.1 hectares. In this case the proposed dwelling would not exceed the 100 square metre threshold and the plot size would be less than 0.1 hectare.

6.1.8 Given that the applicant is eligible for a single plot affordable dwelling, the acceptability or otherwise of this particular proposal rests on an assessment of the material planning considerations set out below.

## **6.2 Siting and visual impact considerations**

6.2.1 SAMDev Policy MD2 'Sustainable Design' and Core Strategy Policy CS6 'Sustainable Design and Development Principles' require development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. Proposals are required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.

6.2.2 Development is encouraged where it is sensitively designed, reflects the needs of the local community and contributes towards infrastructure and affordable homes for local people. This is largely echoed within Policy CS5 'Countryside and Green Belt' of the Core Strategy and MD12 'Natural Environment' of the SAMDev Plan which seeks to protect, maintain and where appropriate enhance the local environment; and Policy CS17 'Environmental Networks' of the Core Strategy.

6.2.3 This is a sensitive case in that whilst it is noted that there is an acute affordable housing need throughout Shropshire, planning policy is very clear that new development will be strictly controlled in order to protect the countryside, as such both matters should be awarded significant amounts of weight.

6.2.4 The proposed dwelling would be accessed off the private drive which serves the existing barn conversion. This drive winds up from the public highway between existing dwellings known as Westholme and Underton Cottage to The Barn some 500 metres from the highway. The settlement of Underton is characterised by development which addresses the public highway running through the settlement. The proposed site is divorced from the settlement being located some 250 metres from the public highway up a private driveway. As such it is considered that the proposal would not meet the locational criteria of Policy MD7a 'Managing Housing Development in the Countryside' of Shropshire Council's SAMDev Plan, Policy CS5 'Countryside and Green Belt' of the Core Strategy and Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD).

- 6.2.5 Whilst the proposed dwelling would have an individual design not necessarily considered to be in keeping with the local vernacular, the site is not particularly prominent and, in the light of para. 127 ( c ) of the NPPF which states that decisions should ensure (amongst other criteria) that developments :

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

- 6.2.6 The design is considered reflective of contemporary materials and design. The siting within the application site has been amended to take in account the constraints imposed by the existing trees and reduce the need for significant pruning works to trees. The proposed building would not be particularly prominent, and its impact on the visual amenity of the landscape character of the area would be limited, it is nevertheless considered that the proposed location of the building, would not be appropriate development in the countryside and no justification has been identified to warrant such development contrary to adopted local planning policies.

### **6.3 Residential Amenity**

- 6.3.1 Core Strategy Policy CS6 seeks to safeguard residential amenity. It is accepted that the erection of a dwelling as proposed would be to a large extent screened from the existing dwellings by the existing trees and considered that the separation distances are sufficient to ensure that there would be no undue loss of residential amenity by virtue of loss of privacy, overbearing or overshadowing impacts.

### **6.4 Ecology**

- 6.4.1 Any new development in the open countryside must ensure that it does not result in harm to any protected species and increase biodiversity to be compliant with the requirements of Section 15 of the National Planning Policy Framework. The application has been supported by an Ecological Assessment (Greenscape Environmental) which has been assessed by SC Ecology Team.
- 6.4.2 There are ponds within 250m of the site. The pond to the north is dry, and the pond to the south is said to be separated by a stream. Natural England's rapid risk assessment comes out as green (offence highly unlikely) due to the size of the development and distance from the pond. Greenscape Environmental have provided a reasonable avoidance method statement which may be conditioned should planning permission be granted.
- 6.4.3 It is considered that appropriate conditions and informatives would ensure that ecological interests are protected.

### **6.5 Drainage**

- 6.5.1 Details submitted with the application confirm that the foul drainage would be disposed of via a septic tank and that the surface water would be disposed of via soakaways. A Foul Drainage Assessment form has also been submitted with the application. The Councils Drainage Team and raise no objection subject to informatives. The drainage will require approval under building regulations to



ensure that it functions satisfactorily.

## **7.0 CONCLUSION**

7.1 it is acknowledged that Shropshire has an acute housing need for affordable homes, and in this case the basis of the application is a specific medical need, level access and the applicants desire to remain in the local area due to community involvement. The proposal would however constitute development that is poorly sited in relation to the surrounding built form of this part of Underton and would unnecessarily encroach into the open countryside. As such the site would not reflect the local character of the dwellings in the area by reason of it being set back from the roadside and accessed via a long private drive. Whilst it is noted that this drive serves the existing barn conversion currently occupied by the applicants this dwelling was created through the re-use of an existing farmstead which is part of the countryside landscape and not part of the settlement.

7.2 As such it is considered that the proposal would not meet the locational requirements of Policy MD7a 'Managing Housing Development in the Countryside' of Shropshire Council's SAMDev Plan, Policy CS5 'Countryside and Green Belt' of the Core Strategy and Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD).

## **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

Shropshire Core Strategy and SAMDev Plan Policies:  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD7a Managing Housing Development in the Countryside  
MD12 The Natural Environment  
MD13 The Historic Environment  
S3 Bridgnorth Place Plan Area

SPD on the Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

11/04105/FUL Application under Section 73a of the Town and Country Planning Act 1990 for change of use from private stable yard to commercial equestrian livery; construction of manege and erection of detached holiday let (part retrospective) NPW 15th November 2011

11/05373/FUL Erection of one detached holiday let with formation of new driveway; installation of septic tank drainage system; landscaping scheme WDN 14th March 2012

13/04683/FUL Erection of a dwelling to be used as holiday let; installation of septic tank REFUSE 23rd May 2014

## 11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

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

Ecology Report

Arboricultural Report

Supporting Statement

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Robert Tindall