

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 18/02237/FUL

Parish:

Whixall

Proposal: Change of use of land and conversion of a show bungalow to residential dwelling and associated works (re-submission)

Site Address: Proposed Dwelling Opposite Browns Of Wem Pool Head Wem Shropshire

Applicant: C R M Marsh

Case Officer: Sue Collins

email: planningdmne@shropshire.gov.uk

Grid Ref: 349340 - 332857



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

- 1.1 This application seeks planning permission for the change of use of land and for the conversion of a show bungalow to a residential dwelling. The proposal also includes other associated works including the creation of a vehicular access and a driveway to serve the property. Another building on the site is to be used as a garage.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within an area of countryside as defined in SAMDev. Planning permission was granted in the 1960s for the construction of a number of buildings on this site to be used as show buildings. The bungalow and the garage building are all that remain and until about 12 months ago the site was very overgrown with no formal access to it.
- 2.2 The site stands opposite the business buildings of Browns of Wem. The highway passes to the east of the site and otherwise it is surrounded by agricultural land with no other buildings on this side of the highway.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected to the proposal which is contrary to officer recommendation. The Chair and Vice-Chair in consultation with the Principal Planning Officer have considered that the site is in open countryside and detail in support appears vague. The proposal has also been brought to the attention of the Chair and Vice-Chair's attention and a site visit is required in order to give adequate consideration.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online**4.1 Consultee Comments****4.1.1 Parish Council:**

Response Received 8th October 2018

The proposed development is contrary to Whixall's Open Countryside designation.

Response Received 29th August 2018

In the light of the recent changes to Government policy Whixall Parish Council now wishes to remove its objection to the above planning application.

Response Received 2nd July 2018

The proposed development is contrary to Whixall's Open Countryside designation.

- 4.1.2 **Affordable Housing:** We note that the applicant has stated they will pay an affordable housing contribution and a proforma should be submitted.

- 4.1.3 **Highways:** No objection – subject to the development being constructed in accordance with the approved details and the following conditions and informative notes.

Observations/Comments:

The application is seeking approval for the change of use of a show bungalow into a residential dwelling. The current application follows on from the relatively recently refused application under reference 17/05492/FUL.

The revised Visibility Splay Plan (Drawing No. Sa 28045/04) has been resubmitted and a revised Block Plan (Drawing No. Sa 28045/03 Rev D) to reflect the proposed revisions to the proposal in relation to the new application.

The visibility splay provision, access arrangement and parking are considered to be acceptable in principle for the development proposed and the prevailing highway conditions. The proposed gate position into the site has not however been shown and if intended should be set back a minimum distance of 5 metres from the adjoining carriageway edge and hung to open into the site.

Based upon the information contained within the above submitted statement it is considered that, subject to the recommended conditions being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

- 4.1.4 **Regulatory Services:** No objection

There is no objection regarding the application however it is recommended that attention is given to ensuring that glazing with substantial noise attenuation properties is provided to ensure noise from nearby commercial activities to the east/northeast do not have an unacceptable detrimental impact on the health and wellbeing of future residents.

- 4.1.5 **Drainage:** No objection.

4.2 **Public Comments**

- 4.2.1 No letters of representation have been received.

5.0 **THE MAIN ISSUES**

- ☐ Principle of Development
- ☐ Affordable Housing
- ☐ Design, Scale and Character
- ☐ Impact on Residential Amenity
- ☐ Drainage

6.0 **OFFICER APPRAISAL**

6.1 **Policy & principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for

local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The Parish Council has objected to the principle of the development as they consider that the development is contrary to adopted policy.

6.1.3 The previous application reference 17/05492/FUL for the change of use of the building and land was refused for the following reasons:

1. The building is not considered to be of any historic or local significance and as such it is considered that conversion to residential use does not comply with Shropshire Core Strategy policies CS5, CS6, CS17 and SAMDev policies MD2, MD7a and Shropshire Supplementary Planning Document: Type and Affordability of Housing SPD in relation to conversions of rural buildings as heritage assets, as well as the overall aims and objectives of the National Planning Policy Framework.

2. The proposal was for an unencumbered dwelling and no information has been provided to demonstrate that the future residents of the proposed dwelling would have residential amenity protection from the neighbouring business land use. As such their residential amenity cannot be ensured. This is contrary to policy CS6 of the Shropshire Core Strategy.

6.1.4 The building that is in question was constructed in the 1960's as a show home on this parcel of land along with a number of other buildings to showcase the products offered by Browns of Wem at that time. Subsequently most buildings have been removed leaving only the bungalow and garage on the site. The proposal is for the conversion of the existing bungalow show home to a permanent dwelling. In accordance with detail submitted in support of the application the proposal does not require any structural alterations to the building and a structural survey has been provided with the application that demonstrates the building is structurally sound. While some works are required such as new windows and doors etc, these are merely functional and decorative rather than structural.

6.1.5 The Local Plan Policies have not changed since the determination of the previous application. However, a new National Planning Policy Framework has been adopted by Government and has made subtle changes to the wording of the paragraph relating to development in the countryside. Previously para 55 referred to promoting sustainable development in rural areas which enhanced or maintained the vitality of rural communities. It then continued to indicate the new isolated housing in the countryside should be avoided unless there are special circumstances which it then lists. The new NPPF paragraph 79 states that planning decision should avoid the development of isolated homes in the countryside unless one or more of the circumstances apply. In this case the proposal would be the re-use of a redundant or disused building and enhance its immediate setting.

6.1.6 In terms of sustainability the following comments are made:

Environment

The building is already constructed and therefore no construction works are required and it will have very little impact on the landscape. A condition is to be included to prevent any extensions to the building without planning permission to ensure it is kept to a small, more affordable size. The site will be enhanced

through the future landscaping of the area and the refurbishment of the building.

Social

Whixall has a very active social community and it is only a short drive to facilities within Wem, Tilstock, Prees and Whitchurch. More residents in the area could give potential for these to continue in the future.

Economic

As this is a small building with limited space, it is unlikely that the future occupiers would have a significant benefit to the economy.

Overview

On balance the proposed benefits for the development outweigh the potential harm that could be caused as a result of the conversion of the show home to a dwelling. As such the proposal would be considered to be sustainable.

- 6.1.7 The applicant has stated within the application that they will pay an affordable housing contribution. While this would be beneficial to help towards the Council providing affordable housing, it is not a policy requirement of this development and therefore has no influence over the decision of the application.
- 6.1.8 This is a very unusual application where to all intents and purposes the building has been constructed as a dwelling but without the final fittings. Its design and age does not meet the criteria in policies CS5 and MD7a for being considered a heritage asset and as such its conversion would not comply with locally adopted policies. However on 24th July 2018 the Government issued the new National Planning Policy Framework (NPPF). Para 79 of the new document recommends that isolated new homes should be avoided but at the same time it promotes the re-use of redundant or dis-used buildings. This has to be taken into account as a material planning consideration of the application. A structural survey has been provided with the application which identifies that the building is structurally sound and only minor renovations works will be required to the external appearance such as replacement doors and windows. As such the building is not being changed in its overall design and scale. At present the Government is pushing for the re-use of buildings for residential purposes and this is clearly evident from the changes in permitted development for the conversion of agricultural buildings, offices etc in to dwellings and the overall emphasis in the new NPPF. In this case there is an existing building which has been on site since the late 1960's, does not have a significant detrimental impact on the landscape and through its conversion would provide a relatively small dwelling in this area. A condition is recommended for inclusion on any planning permission granted which would remove permitted development rights for extensions to be added. This will help maintain the property as relatively small to help provide a mix of dwellings in the area.
- 6.1.9 On balance it is considered that there is a sustainable benefit as a result of the proposal in terms of its sustainability. As such while the proposal is in the opinion of officers is contrary to policy CS5 and MD7a and the Supplementary Planning Document on the Type and Affordability of Housing (SPD), it is in accordance with the new NPPF and would be considered a sustainable proposal.
- 6.1.10 There could be a concern that in the future a replacement dwelling could be

sought for the site. It is extremely unlikely that such a proposition would be supported by Officers as this is a conversion of an existing building, where evidence has been provided to demonstrate it is capable of conversion.

6.2 **Design, Scale and Character**

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. In addition to this policy CS5 of the Shropshire Core Strategy together with the SPD are relevant policies against which this proposal must be assessed.

6.2.2 In addition policy MD2 of SAMDev builds on policy CS6 and deals with the issue of sustainable design.

6.2.3 The proposed dwelling would comprise a kitchen, dining/living room, two bedrooms and a bathroom totally approximately 82 square metres. It is indicated in the Structural Survey that the building is structurally sound and capable of being renovated. The small size of the building will ensure that this complies with adopted local policy and the NPPF in providing a mix of dwelling sizes. The Case Officer has been advised that there are people on the housing register looking for smaller, affordable dwellings but with a minimum of three bedrooms and as such the dwelling would not meet the requirements of those on the list but would represent an opportunity for someone to buy a smaller property. In order to ensure that the building remains a smaller dwelling to maintain a mix within the area, a condition will be imposed removing permitted development rights for extensions.

6.2.4 Some alterations are to be made to the external appearance of the building in the installation of the full height windows to the east elevation. Otherwise the only external change will be the installation of new doors and windows. Any other external repairs will be carried out in materials to match the existing building.

6.2.5 From the above it is considered that this is an opportunity to provide a smaller dwelling in this rural location where a condition can ensure that any further development can be controlled. As such it will be in accordance with the NPPF, policies CS5, CS6, and MD2, and the SPD of the Shropshire LDF.

6.3 **Impact on Residential Amenity**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.3.2 As previously indicated in this report, there are no other residential properties in the vicinity that would be affected by the proposal.

6.3.3 However, the premises is within very close of the business premises of Browns of Wem. A noise report has been provided with the application and no objection has been raised by the Regulatory Services Officer. However, they have advised that attention be given to ensuring that glazing with substantial noise attenuation properties be installed. This is in order to protect the further health and wellbeing of future residents. The applicant is also advised that any statutory noise nuisance complaint would have to be investigated which may impact on the future operation of the business.

6.3.4 On the basis of the above no objection is raised by officers to the proposal in terms of the potential impact on residential amenities of the area.

6.4 **Highways**

6.4.1 The proposal indicates a new vehicular access is to be created with a driveway leading to the garage and providing 3 parking spaces. The plans also demonstrate the amount of visibility splay that can be provided.

6.4.2 No objection to the proposal has been raised by the Council's Highways Development Control Officer, subject to the inclusion of the recommended conditions on any planning permission that may be granted. These are to ensure that the visibility splays, parking areas and access apron are installed prior to any occupation and thereafter maintained. A further condition has been recommended to ensure that any access gates are installed a minimum distance of metres from the carriageway to ensure there is no obstruction to the free flow of traffic.

6.4.3 Overall in view of the above, it is the Case Officer's opinion that no objection is raised to the proposed access and parking arrangements.

6.5 **Drainage**

6.5.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.

6.5.2 In this case no objection has been raised to the proposed development by the Council's Drainage Engineer. Therefore it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

7.0 **CONCLUSION**

7.1 This is an unusual case where there is an existing building that was constructed as a show home in the 1960s. Evidence has been submitted to indicate the building is structurally sound and could be renovated to create a small 2 bedroom bungalow. While considered by officers to be contrary to policies CS5, MD7a and the SPD as it is not a heritage asset, the new NPPF para 79 supports the principle of re-using existing buildings in rural areas where they comply with the list of special circumstances. It will also provide a small property to balance more the larger ones in the Whixall/ Wem Rural area providing the mix required by the SPD. On balance it is considered by officers that the proposal will meet the policies of the NPPF and policies CS6, CS18 and MD2 of the Shropshire Core Strategy together with elements of the SPD.

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in paragraph 38 of the National Planning Policy Framework.

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 - written representations, a hearing or inquiry.
- ☐ The decision is 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 a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose 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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into

account when determining this planning application – in so far 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

18/02237/FUL Change of use of land and conversion of a show bungalow to residential dwelling and associated works (re-submission) 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

Local Member

Cllr Pauline Dee

Cllr Chris Mellings

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

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

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

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

3. The visibility splays shown on Visibility Plan Drawing No. SA28045/04 shall be set out in accordance with the splay lines shown. Any retained hedge, or replacement hedge planting should be at least 1 metre behind the visibility splay lines. The visibility splays shall be fully implemented in accordance with the approved details prior to the dwelling being occupied and shall thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the access in both directions along the highway in the interests of highway safety.

4. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Block Plan Drawing No. Sa 28045/03 Rev D prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

5. The access apron shall be constructed in accordance with the Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety

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

6. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class A, B, C, D and E shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.