

Development Management Report

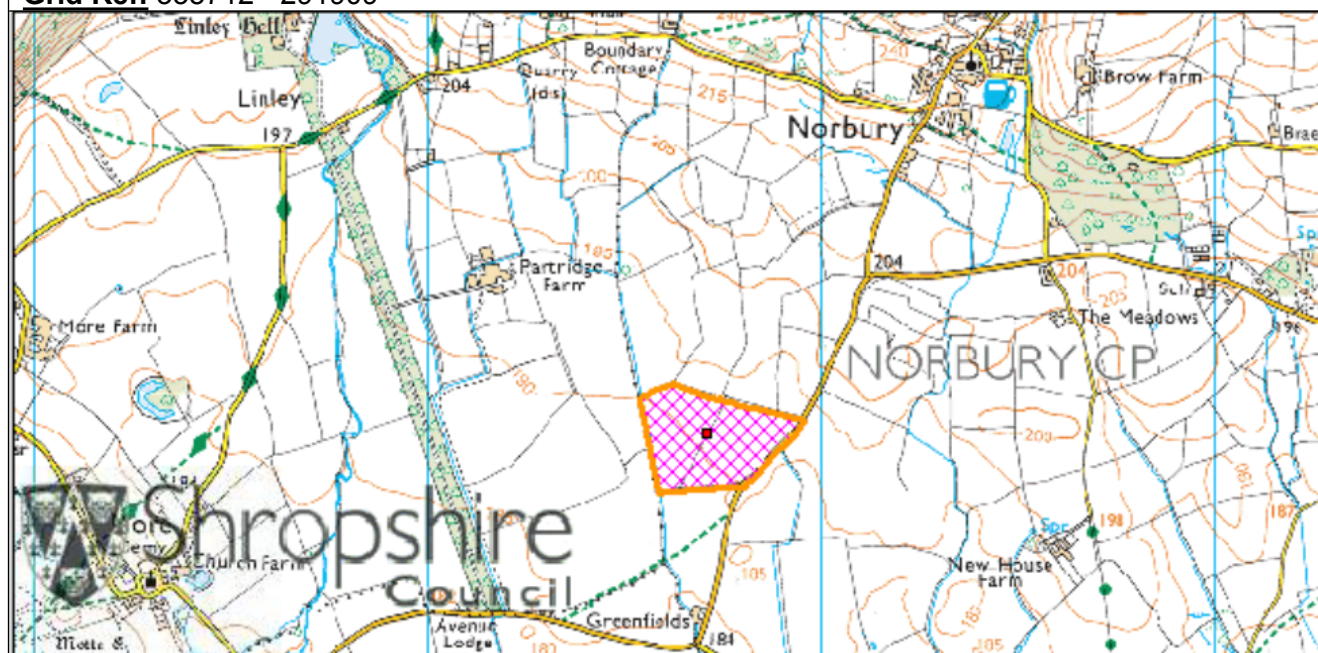
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Summary of Application

<u>Application Number:</u> 18/03215/FUL	<u>Parish:</u>	Norbury
<u>Proposal:</u> Erection of rural worker's dwelling and detached garage with bedsit above; erection of 2No. isolation boxes and horse walker		
<u>Site Address:</u> Penhaligon Stud Norbury Bishops Castle Shropshire SY9 5DU		
<u>Applicant:</u> Mrs Theresa Oakes		
<u>Case Officer:</u> Heather Owen	<u>email:</u> planningdmsw@shropshire.gov.uk	

Grid Ref: 335712 - 291909



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and completion of a S106 to secure an affordable housing contribution should it ever be demonstrated in the future that there is no functional need for the rural workers dwelling either from the original rural enterprise, or from other rural enterprises in the locality.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the following:

- Erection of rural worker's dwelling.
- Erection of detached garage with bedsit above.
- Erection of 2No. isolation boxes and horse walker.

1.2 The dwelling and detached garage with bedsit above is proposed to be located to the north east of the existing stables and stock building. The dwelling proposed would provide a two bedroomed property with a single storey utility, boot room and office attached. It is proposed to be of render and timber clad construction under pitched dormer roof. The proposed garage would provide parking for three cars and be timber clad under a pitched tiled roof, access to the proposed bedsit would be via an external staircase to the south side elevation.

1.3 The Isolation boxes and horse walker are proposed to replace the previously approved lunge ring (14/05768/FUL) as the applicants wish to diversify their business into horse rehabilitation. The horse walker is proposed to be located in the position of the approved lunge area, with the isolation boxes proposed to be sited adjacent to the north. The horse walker would have a diameter of approximately 20m and would be made up of a post and rail fence approximately 2m high. The isolation boxes would consist of two adjoining stables boxes, timber clad under an onduline roof sheeting. Following request from the Councils Agricultural Consultants amended plans have been submitted to increase the sizing of the boxes from 3m squared to approximately 3.6m squared.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located approximately 1km to the south west of Norbury and is accessed via a track on the west of the highway which runs through paddock land and leads to a recently constructed stock building, a stables, and manege. This development was granted planning permission along with the change of use of the land to equestrian and the temporary siting of a mobile home on 08th March 2016 (14/05768/FUL).

2.2 The site is roughly 7.7hectares, with mature tree and hedge rows defining the boundaries of the site. The surrounding area is predominantly made up of open fields, with isolated farms and occasional dwelling houses scattered across the landscape.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council raise a view contrary to Officer recommendation, following consultation with the Chair and Vice Chair of the South Planning Committee it was determined that the application raises material planning considerations which warrant assessment by planning committee.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 Myndtown Combined Parish Council: Objection

The Parish Council Planning Sub-committee, examined the plans in details and conducted a site visit on Tuesday 28th August, considering the scheme against planning guidelines for the benefit of the community. The Parish Council wish to submit the following objections to the proposed development:

BACKGROUND

Penhaligon Stud is an establish small stud, an expansion of which is now based in Norbury parish which despite many local objections including one from this Parish Council was granted Planning Permission by SC Planning Committee on 01st March 2016. The owner/applicant suggested at that time that their present site and Stud business at Grade II Glanhafren Hall, Llanidloes Road, Newtown could not expand due to the compulsory purchase of an undisclosed acreage of their land by the Newtown Bypass. It was stated in the original DAS 1.9 that it is proposed that the entire element of the Newtown business would re-located to Norbury site to accommodation and facilities the expansion and enhance the mares, foals and yearlings to be together to produce a greater number of stables to meet a growing demand. This expansion would then contribute to the rural economy and deliver economic growth to the area by providing local jobs, use local vets, farriers, hay merchants and feed suppliers to name but a few.

Shropshire Council requested that the Reading Agricultural Consultancy (RAC) independently considered the application to which they raised concerns 6.4.7 – that information such as business accounts demonstrating that the business is capable of sustaining itself in the longer term was lacking. 6.4.8 – Financial information was then supplied with the RAC stated ‘would not meet the test of sustainable development if used to support an application for a permanent dwelling’ – on the Norbury site – and ‘at the end of the 3 year period failed to show a level of profit to meet the cost of all labour both employed and notional labour charges for the applicant; based on return from capital invested and build costs’. It was only after the applicant later confirmed to the RAC that the whole business would re-locate to Norbury site, 6.4.9, did the RAC confirm that there would be an essential need for someone to be residential on the site.

Shropshire Councils SAMDev Plan has now been adopted and replaces all previously saved policies of the Local Plan.

RELEVANT PLANNING HISTORY

The applicant owns the fields, approx. 7.7 (18.9) acres of land, which is available to the business at Norbury. It is stated that potentially more land was available for purchase nearby to facilitate the re-location of the entire business to the site. Has the applicant purchased more land within the locality to enable this or provided evidence of how many horses the current site can support? Have all the Conditions set out in the Planning Permission Determination for Application no 14/05768 been met, approved and proven completed? i.e. Condition 13 – The Mobile Home which

was granted on a temporary basis. Has the LPA assessed the viability of the business prior to the need for a permanent dwelling? It is noted in the current Planning/DAS 3.12 – that Surface & foul water drainage as approved under 16/02864/DIS will be provided. The Planning Committee at the hearing of 1st March 2016 raised concerns as to the above being met accordingly. This Council noted at the Site Visit that guttering on the main equine building is evident, however, the down pipes falls short of the ground by approx. 2 feet. There are no drains or drainage channels in situ thereby all the surface water run-off is straight in to the ground. Can Shropshire Council Drainage/SuD's confirm that they have inspected the site within the past 2 years and this issue been satisfactorily addressed; in that the surface water management drainage system has already been installed and designed for possible future extensions – in an area that is consistently prone to flooding?

LOCATION

The proposed dwelling and detached garage with bedsit above are located in a 'Greenfield' surrounded by pasture land. It lies on the southern boundary of the Shropshire Hills AONB and 1km from the built environment of historic Norbury Village which has Conservation Status. The proposed dwelling site is isolated and separate from the current buildings and yard in the field directly adjacent to the main high-way. The proposal on another Greenfield site is on a rise in the land, in an exposed area on a previously undeveloped rural gap site and will be a highly visible intrusion on the landscape. It is noted that S106 dwellings are required within as close a proximity to existing agricultural buildings, preferably within the 'farm' yard itself, to alleviate isolation and contain the development area.

GENERAL COMMENTS

The application is for a Rural Workers dwelling, detached garage with bed-sit above, erection of x2 Isolation boxes and horse walker. In the Type & Affordability of Housing SPD para 3.7 it states that a Rural Workers dwelling should aim to be 100sqm. Has a relevant case been made as also stated, for the proposed dwelling to cover a larger amount of floor space- DAS 3.2 '....has a total gross internal floor space of 142sqm'. The DAS is confusing in that it suggests only the second bedroom of the proposed dwelling will be used to provide for possible temporary Germanic Students – DAS 6.26. It does not state who will be occupying bedroom one as the DAS 2.6 also clearly states 'this proposal will enable the applicants to live permanently at the Newtown site'. This does not reduce the need for the applicant's vehicular travel of 44-mile round trip to the site once or twice a day. There was a member of staff on the site in the temporary mobile home for some time, however he has since left the applicants employ and a new staff member will be recruited. As of 29th August 2018 the applicants website states that the Stud business and associated Saddlery business is situated in Newtown on the Shropshire/Wales border. There is no suggestion anywhere on the website (last updated 5th August) that the whole of the business as already or will be relocating to the Norbury site. Can the applicants confirm and provide that the entire Penhaligon Stud business has now relocated to the site at Norbury and no element of which still exists at the Newtown site, as raised by the RAC Report nearly 3 years ago?

The 3-car garage with bed-sit over is a considerable sized building in itself. Is it

within the Policy for a garage to be included and if so is this taken into account of the overall size when determining a Rural Workers Dwelling? If so, this would then make the entire residential floorspace extensive, unjustified and not of an appropriate scale.

The DAS 2.2 states that 'half their land at Newtown was compulsory purchased as part of a flood relief scheme for the Newtown Bypass – which was planned for 40 years – and therefore expansion of this site was not possible'. A 130-page document produced by Powys County Council re: the Bypass, states that 2 parcels of the (applicants) land were used to install a flood drainage system. The land, plots 1/5A & 1/5B were then 'reinstated with gentle slopes, re-grassed and suitable for horses' were then returned to the owners. Can the applicants confirm this? This Council also notes that there are 16 prior planning applications connected to the Newtown site which seems to defy their claims that expansion on the site was not possible.

In the SPD Strategic Objection 7 of the CS, has the business case in relation to the (Norbury only) site been proven valid which does not include the established equestrian saddlery business based in Newtown? Also Policy MD7(a) has the relevant financial and functional tests been met and demonstrated that the business is viable in the long-term and that the cost of the dwelling can be funded by the on-site business (Norbury only) and questioned in this RAC Report 6.4.10? As stated by the application 14/05768 and the present DAS 5.5, has the site at Norbury only – contributed to the economy and sustainability of the local rural area within the past 2 ½ years by producing a proven paper trail of Invoices for local employment for additional staff; use of local vets; hay merchants; farriers and feed suppliers' etc and does not include those from the Newtown area used by the applicant?

The Council is aware that many unfavourable responses from within the immediate locality has been made. There has also been comments supporting the application by the far wider general equine community/ This Councils notes the 'support comments' refer mainly to the diversification of the Stud business to include horse-rehabilitation. This is an unproven element to the current business and not relevant to this application, to which no financial viability basis can yet be provided and for which none of the present permissions apply, therefore they must be discounted.

4.1.2 SUDS: No objection – recommend informative regarding design of surface water drainage scheme.

4.1.3 Reading Agricultural Consultants: No objection

- The dwelling would be sited in close proximity to the stable and land, and would meet the essential needs of the equestrian enterprise.
- There is an accepted continuing essential need for on-site accommodation at Penhaligon Stud arising from the stud enterprise and the applicants own competition horses. There are in addition visiting broodmares during April – August which adds to the essential need.
- The applicant's equine business is considered profitable, viable and sustainable now and in the long term and the accounts demonstrate an increasing net profit to meet notional costs, including labour charge.

- Overall the application for a permanent dwelling is compliant with Local Plan Policy SAMDev MD7a and the NPPF.
- The proposed isolation boxes and horse walker are appropriate facilities for the applicants equestrian use but suggest the Council seek clarification on the size of the two stables contained within the isolation facility

4.2 Public Comments

4.2.1 This application was advertised for 21 days by way of site notice (expired 31st August 2018) and directly in writing to one neighbour (expired 23rd August 2018)

4.2.2 10 objections have been received and are summarised as follows:

Need:

- There are properties for sale in the Village.
- Do not believe a person needs to be on site permanently because this is not the case at the moment.
- Either the existing stud business meets the need to build an essential rural workers dwelling or it doesn't – The rehabilitation part of the business is a new untested venture and need to be proven to be viable before any permanent accommodation is allocated to support it.
- Why the sudden need to diversify the business after just 2 years from gaining planning consent which is still to be completed.
- The Business case should be released to be able to come to a judgement on the need.

Highway Safety:

- Horses from this establishment are frequently exercised on the adjoining road which is subject to the national speed limit and has blind bends and crests.
- Increase in large vehicles on the roads.
- If the applicants are intending to run clinics, training and events there will be car parking issues and noise pollution from public address systems.

Employment:

- No local employment, merely relocation of existing staff from Newtown.
- No local connections have been made – vets, workers and contractors.

House Design:

- Overly large and poorly sited.
- Out of keeping with architecture of surrounding houses.
- Why is more car parking and garaging being proposed in addition to the 8 already at the site.
- The garden is oversized being some 40m.

Visual Impact:

- The house and garage/bedsit are remotely located from the existing built development – spilling development further into greenfields.
- The development would only add to further loss of the green field.

- The existing development is ugly and no amount of screening will mitigate this.
- Concerned about the impact of additional buildings and horse paraphernalia on the landscape.
- The building of a house in open countryside is unacceptable.

Setting of heritage assets:

- There has been no Heritage Impact Assessment – the development already mars the tranquillity of the ancient view of the avenue of 440 oak trees leading to Linley Hall.

Drainage and Flooding:

- As a previous tenant of the land can confirm the ground does not support heavy livestock.
- Since the site has been developed there has been highway flooding at the entrance of the site and on the Three Chimneys corner – locals have not seen it so bad.
- Suffered financial loss due to flooding of 3 acres of farm.

Publication:

- Lack of publication of this application - The notice was only on the site for 5 days.
- As a neighbouring farmer we were not directly notified by the Council of the planning application.

Other matters:

- Applicants breaching conditions of planning permission by running horse clinics – offering tuition – this site is not just a stud but horse dealers and producers – a breach of condition 11 of the 2014 permission.
- The nature of Penhaligons business operation is unclear. Is it a stud or a rehabilitation centre; are the owners dressage producers, or horse dealers, or property developers, or all of the above?
- None of the letters of support are from the Local Parishes.
- A multi-million pound racing stable which was re-established just 1 1/2 miles away was closed around 10 months ago after 2 years – If that cannot be made financially viable then do not know how the existing business can also be made viable – any business plan should be scrutinized.
- Graze cattle on the neighbouring field and concerned about the level of noise and activity.
- New builds should be for local people who intend to live and work here.
- No community benefit.
- This development has been planned by the applicants since February 2013 in a newspaper interview and stated that the land was brought and a house would be built.
- The Newtown Bypass has no relevance to this application as the land loss has been reinstated and planning permission granted for an agricultural building and manege.
- Little information is provided as to who would be living at the property other than one worker and German students.
- What are the future plans – the applicants are at retirement age how long

will they run the business here.

- Are the applicants suitability qualified to run the rehabilitation centre.
- Will the property really be restricted to stop sale of the site for a huge profit.
- The scheme would harm wildlife and biodiversity.
- How will neighbouring organic land be protected by contamination.
- How will manure be disposed of?
- The house is proposed to be 'off grid' by photovoltaic panels to be located on the stock building – where is the planning application for this?

4.2.3 13 letters of support have been received and are summarised as follows:

- There needs to be onsite provision for the safety and well-being on the horses.
- There are few rehabilitation centres for horses and this would complement the existing facilities.
- Note concerns of the local area, but having visit the area and seen tractors moving equipment and high trailers struggle to see how this business is much different.
- The business will bring money, employment and new equestrian facilities (rehabilitation centre) to the area.
- The type of equestrian facility is needed in the area for horse owners and breeders.
- Equestrian businesses are vital to a diverse rural economy.
- The scheme fits well within the existing agricultural landscape of Norbury.
- Important to support the rural economies of Shropshire and Powys.
- As an owner of a riding school in South Shropshire would find a rehabilitation centre very useful as currently have to travel to the North Shropshire/Cheshire border for any horse rehabilitation.
- The site is set well back from the road and has no near neighbours.

4.3 AGENT RESPONSE TO OBJECTIONS:

Planning Statement correction:

- Reference at 2.6 of the Planning Statement suggesting the applicants will live permanently at the Newtown site is a typographical error as it should of read Norbury, as indicated by the correct referencing in paragraphs 2.2 and 7.3.

Newtown – Current situation:

- The applicants do still currently live in their Newtown property, but have a buyer and will be selling shortly.
- The applicants have 3 mares and foals at Newtown, they are to be auctioned in September and once sold no horses will remain at Newtown.
- The land returned to the Newtown property following completion of the flood relief scheme for the Bypass has been found unsuitable for the grazing of horses and in particular foals (See Conclusions of A483/A489 Newtown Bypass: Suitability of Land for Grazing Horses, Glanhafren Hall, Newtown, Welsh Government)

Proposed Dwelling and Bedsit:

- The proposed dwelling will be occupied by the applicants.
- A student is expected to live in the spare bedroom during busy periods.
- The bedsit would be for a professional rider and partner – a 24 year old who has experience in training Studs and competes at Grand Prix level.

- The garage would be for cars and also the storage of tools and machinery.
- The dwelling could not be located in the yard as this would result in the loss of the space needed for turning of vehicles.

Future:

- The proposed horse rehabilitation is not to replace the existing stud business.
- The site will house 20 horses this winter, most housed in the new barn.
- The completion horses stabled and turned out on the paddock or horse walker if permission granted.
- The applicants sell their own horses as part of the stud business, they are not horse dealers.
- The applicants Saddlery and storage business run from Newtown will not be transferred to Norbury but will instead be ceasing once the applicants move permanently to Norbury. The sale of the storage business will be used to invest into the rehabilitation proposals.

Drainage:

- The site is within Flood Zone 1 which has a low risk of fluvial flooding.
- The existing approved buildings have been constructed with permeable bases.

Traffic and Highways

- The rehabilitation unit would house a horse for a minimum of 6 weeks and a maximum of 4 horses can be rehabilitated at any one time on the site – on average horses would arrive or depart once every 5 ¼ days.

Heritage

- The proposal should not affect the setting of the heritage assets of Linley Hall. The objectors refers to a High Court Judgement in Steer v SSCLG which it should be noted was overturned by the Court of appeal (Neutral Citation Number [2018] EWCA Civ 1697)

5.0 THE MAIN ISSUES

Planning History
 Principle of development
 Essential Need
 Financial Sustainability
 Siting, scale and design
 Visual impact and landscaping – Setting of Shropshire Hills AONB.
 Heritage Impact
 Drainage
 Highway Safety
 Other Matters

6.0 OFFICER APPRAISAL

6.1 Planning History

- 6.1.1 Planning permission was granted in March 2016 under 14/05768/FUL for Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to on existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling.

6.1.2 Since the 2016 approval the work to the existing barn have been carried out, along with the erection of the stock building and manege. The temporary mobile home moved on site and occupied by a member of the applicants staff whom has been on site to look after the horses which has been moved to the site. The applicants currently live at their property near Newtown, Powys and the business is currently split across the two sites whilst the Norbury site has been establishing.

6.2 Principle of development

6.2.1 Horse walker and isolation boxes:

Since the granting of the previous permission the applicants are looking at diversifying their business to provide equine rehabilitation facilities and as part of this planning application it is proposed to construct a horse walker in the place of the approved lunge ring and an isolation unit comprising of two stable boxes. The principle of providing buildings/ equipment that are needed for a lawfully established rural enterprise are considered to be acceptable in principle under the Shropshire Core Strategy policy CS5, CS13 and CS17 and MD7b of the SAMDev Plan, subject to the proposal being of an appropriate scale and design, as required by policy CS6 and MD2.

6.2.2 There is third party objection that this part of the scheme would result in a breach of condition 11 attached to the planning permission, 14/05768/FUL which is worded as follows:

'The buildings and equestrian land hereby approved shall be used only in connection with the applicant's equestrian usage and shall not be used for other commercial or livery purposes.'

Reason: - To prevent a more intensive use being introduced in the interests of protecting the character and appearance of the countryside and highway safety having regard to the network of country lanes within the locality.'

6.2.3 The proposed horse walker and isolation boxes would be used for equine rehabilitation which would form part of the applicant's existing equestrian usage of the site and not a separate business as such it is judged that the proposal would not be in breach of this condition.

6.2.4 Rural Workers Dwelling and garage with bedsit:

National and Local Planning policy generally seeks to concentrate new residential development in locations which promote economic, social and environmental sustainability. For new housing development, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in policy CS3; CS4 and set out in detail in the Council's SAMDev Plan, policy MD1. For the purposes of local planning policy this area is classed as countryside, where paragraph 79 of the NPPF states that the development of isolated homes in the countryside should be avoided unless such development falls within the following criteria:

- a) *There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work*

- in the countryside;*
- b) *The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
 - c) *The development would re-use redundant or disused buildings and enhance its immediate setting;*
 - d) *The development would involve the subdivision of an existing residential dwelling;*
- Or
- e) *The design is of exceptional quality, in that it:*
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas;*
- and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

(paragraph 79 of the NPPF, July 2018)

6.2.5 At the local development plan level the aims and objectives of paragraph 79 are reflected in Core Strategy policy CS5 and SAMDev policy MD7a, supported by the SPD - Type and Affordability of Housing. Like paragraph 79 these policies seeks to restrict new residential development to a handful of specific exceptions such as conversions, dwellings for agricultural and other essential countryside workers or affordable dwellings for an identified local need (all of which are also subject to specific policy restrictions).

6.2.6 SAMDev Plan Policy MD7a states that dwellings to house essential rural workers will be permitted if:

- a. *There are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural business;*
- AND,
- b. *In the case of a primary dwelling to serve a business without existing permanent residential accommodation, relevant financial and functional tests are met and it is demonstrated that the business is viable in the long term and that the cost of the dwelling can be funded by the business. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, a financial contribution to the provision of affordable housing will be required, calculated in accordance with the current prevailing target rate and related to the floorspace of the dwelling;*

OR,

- c. *In the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the enterprise for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, it will be made available as an affordable dwelling, unless it can be*

demonstrated that it would not be suitable. Where unsuitability is demonstrated, a financial contribution to the provision of affordable housing, equivalent to 50% of the difference in the value between the affordable and market dwelling will be required. Such dwellings will be subject to occupancy conditions. Any existing dwellings associated with the rural business may also be subject to occupancy restrictions, where appropriate.'

6.2.7 The dwelling subject to this application would be for a primary workers dwelling for a rural enterprise and in principal provided the essential and financial tests are satisfied is accepted by planning policy.

6.3 Essential Need

6.3.1 The main test set out in the NPPF and SAMDev MD7a is an assessment as to whether it is essential for a rural worker to live at or near their place of work. The case has been independently considered by Reading Agricultural Consultancy (RAC) (commissioned by the Council) with regard to the case made for essential need. RAC considers an assessment of the essential need for a rural worker to live at or near their place of work requires the following:

- An evaluation of the risks involved,
- The frequency and type of out of hours emergency that might arise,
- The scale and loss that could be incurred should that emergency situation occur,
- The potential for an on-site worker to identify the problem
- The ability of that resident worker to rectify the problem.

6.3.2 There is a legal responsibility under the Animal Welfare Act 2006 to ensure animals are kept in a manner which does not cause unnecessary suffering to any animal. The Act also contains a duty of care which requires anyone responsible for an animal to take reasonable steps to ensure that the animal's needs are met and its welfare assured. In this case the duty of care for any horses stabled rests with the applicants.

6.3.3 In 2005 the equine industry and welfare organisations produced revised guidelines for the welfare of all horses, ponies and donkeys which states: "sufficient staff must be provided at all times to ensure proper, regular and timely attention to all horses held."

6.3.4 It is also accepted that horses are valuable animals, and vulnerable to theft and occasionally inexplicable, subjected to violent attacks. Security is therefore particularly important for equine businesses.

6.3.5 To an extent the principal of the essential need for a worker to be living permanently at this site has been accepted through the granting of the previous planning permission for the temporary mobile home, which has enabled the applicants to begin relocation of their business. In this application, as before the essential needs can be summarised as follows:

- the close supervision, management and daily nutrient requirements of

horses either boxed in stables or in paddocks;

- the close supervision of mares during the breeding season and at foaling;
- the preparation of brood mares for artificial insemination;
- the provision of security for breeding stock and youngsters from theft or malicious attack;
- dealing with unforeseen emergencies.

6.3.6 The stud at Norbury presently extends to 7.7 hectares and at the time of the submission of this planning application there were 20 horses at the site (made up of 8 broodmares (some in foal and some to be in foal this year), 2 yearlings, 9 young stock in training or competing at an Advanced Level and 1 injured horse).

6.3.7 The applicant (Mrs Oakes) manages the breeding side of the enterprise and a member of staff is employed full time to manage the youngsters. It is this member of staff whom has occupied the mobile home whilst the Norbury business has been establishing. A part time worker is employed to muck out the stables. Work experience students from Germany are also taken on during the busier months of the breeding season between April – August.

6.3.8 The Stud breeds and rears foals to an age where they can be prepared for sale as competition horses. The equine rehabilitation services is intended as diversification to the existing business, with horses being sent as referrals from veterinary surgeons, competitors and racehorse trainers.

6.3.9 The provision of the dwelling and bedsit would enable the provision of two full time workers at the site (The applicant and one employee). RAC considers that the labour requirements for the business here is around 3.4 full-time workers and is content that there continues to be an essential need for at least one full time worker to be on site at Penhaligon Stud in order for the enterprise to be managed properly and ensure the welfare of all of the horses on the site is not compromised. It is acknowledged that the provision of the dwelling and a bedsit would provide accommodation for more than one worker to occupy the site at any one time, however RAC in this case do not consider this to be unreasonable given the labour requirements of the site.

6.4 Financial Sustainability

6.4.1 SAMDev MD7(a) also requires a financial test to assess the need and viability of primary workers dwellings. As part of the assessment by the RAC confidential accounts were provided for 2016, 2017 and interim accounts for 1st January 2018 – 31st July 2018, covering the activities of the applicants business across the Newtown and Norbury Sites. The accounts demonstrate an increasing net profit as the Norbury enterprise has been established and that the business is viable in the long term and can fund the cost of the dwelling and bedsit as well as meet the cost of labour (both employed and notional labour charges for the applicant). As such RAC are content that the equestrian business meets the financial tests in accordance with SAMDev MD7a.

6.4 RAC confirm there are no other dwellings in the locality that are suitable and available to meet the essential needs of the enterprise. Taking the above into

account it is concluded that the primary dwelling and bedsit would comply with relevant development plan policy.

6.5 S106 agreement and Occupancy conditions

6.5.1 In order to accord with development plan policy MD7a and the SPD, the dwelling permitted here should be subject of an occupancy condition limiting the occupancy of the dwelling to a person solely or mainly employed, or last employed, in the locality in equestrian, or in agriculture as defined in Section 336(1) of the Town and Country Planning Act, 1990, or in forestry, or a dependent of such a person residing with him or her or a widow or widower of such a person. It is also considered that the occupancy of the bedsit should be control and limited to those employed or last employed on the equestrian business at the site in order to prevent the bedsit from being occupied as a separate unit.

6.5.2 Should it be demonstrated in the future that there is no functional need either from the original rural enterprise, or from other rural enterprises in the locality and these conditions removed so the dwelling maybe sold on the open market, an affordable contribution will be required in accordance with Policy CS11 at the current prevailing target rate. Agreement to this is required to be secured via a legal agreement.

6.6 Siting, scale and design of structures

6.6.1 Shropshire Core Strategy policy CS6 seeks to ensure that development is in scale, density, pattern and design taking into account the local context and character, with Core Strategy policy CS17 seeking to protect the visual amenities of Shropshire's natural environment. SAMDev Plan policy MD2 (Sustainable Design) gives further guidance on factors to be considered in achieving high quality designs.

6.6.2 Horse walker and loose boxes:

SAMDev Policy MD7(b) deals with General Management of Development in the Countryside and requires development should be of a size/scale and type consistent with its required purposes and the nature of the agricultural enterprise or business that it is intended to serve. Such structures are expected to be well-designed and located in line with CS6 and MD2, and where possible sited so it is functionally and physically closely related to existing farm buildings.

6.6.3 Like the approved lunge ring, the proposed horse walker is of a circular shape with a diameter of 20m, it would be constructed of wood and metal fencing. It is of a size which will allow the exercising of a number of horses and is proposed to be sited (along with the proposed isolation boxes) adjacent the existing manage and in place of the previously approved lunge ring. The isolation boxes comprise of two stable units 3.6m squared and covering a total floor area of approximately 26.64sqm. The unit is of single storey design with a maximum ridge height of approximately 2.9m and would be timber clad under Onduline roof sheeting. The size of the unit was amended to comply with the DEFRA Code of Practice for the Welfare of Horses, Ponies, Donkeys and their hybrids (2017) following recommendation by the Councils Agricultural consultants.

- 6.6.4 The horse walker and isolation boxes are judged to be closely associated with the rest of the existing equine related development at this site. The scale and design are appropriate for the use and taking into account the size and design of existing development on the site.
- 6.6.5 Dwelling, garage and bedsit:
The explanatory text of SAMDev policy MD7(a) sets out the expectation that the scale and type of dwelling proposed for a new primary dwelling must closely relate to the needs and scale of the business. Whilst the size of secondary dwellings is sought to be restricted to 100sqm, the policy recognises that for primary dwellings because they tend to have a dual role as both a family home and provider of the specialist accommodation such as business office, utility room and wet room, there is no firm restriction to the size of the dwelling. The policy does however require that the cost of the dwelling must be solely funded by the business and its scale must relate to the functionality of the business and accord with CS6 and MD2 of the development plan.
- 6.6.6 In this case the proposed dwelling would have a gross internal floor area of approximately 142sqm, of this total around 117sqm is to be used for domestic use the remaining 25sqm to be used to provide office accommodation for the business, along with a utility and boot room, with WC for the use by staff employed at the enterprise. The confidential accounts submitted have satisfied RAC that the construction costs of the dwelling can be funded by the business.
- 6.6.7 Turning to the design, the dwelling proposed is a two storey property with the first floor accommodation being served by dormers. The 'business' section of the dwelling would be contained within a proposed single storey section projecting off the west side elevation. The main part of the dwelling is proposed to be rendered with brick side elevations and the single storey element timber clad, all under a tiled roof. Precise details of the materials including colour and finishes can be conditioned. Both the design and materials proposed are considered to be reflective of local vernacular. The scale and design of the house are judged to be compatible with its functionality as a primary essential rural worker's dwelling and family home. In order to ensure the property's size remains commensurate with the needs and scale of the business it is considered appropriate in this case to withdraw 'permitted development' rights for future additions to the dwelling.
- 6.6.8 A detached outbuilding is proposed to provide a triple garage with the residential bedsit in the roof space above. The outbuilding would provide a footprint of approximately 54sqm, the ground floor is to be used to provide domestic garaging for the occupiers of the dwelling, above which the bedsit consisting of approximately 35sqm of accommodation is proposed. The design and materials proposed are reflective of domestic outbuildings and it would be sited close to the proposed dwelling and have a lower ridge height to the main dwelling it serves. As such it is judged that the outbuilding would be a subsidiary structure to the main dwelling and would not be disproportionate to the site. The Parish Council question whether planning policy for essential workers dwellings allows for the provision of outbuildings such as garaging and whether the floor area of such outbuildings is included in the size of the proposed dwelling. Planning policy does not restrict

garaging for any type of exception property including both affordable dwellings and rural workers dwellings, and when detached from the property the floor area is not including in any accommodation calculations. Objection is raised as to why the garaging is required, given the existing parking provided at the site. However the existing parking area is to serve the business needs rather than the dwelling. The garaging proposed is not judged to be oversized for the site on which it would sit or the dwelling it would serve, a condition can be attached to any planning permission granted to ensure the garaging is used for domestic garaging and storage only and not incorporated into living accommodation to serve either the house or the bedsit above.

6.7 Visual impact and landscaping

- 6.7.1 The application site is located within open countryside, outside of any designated area itself, however the boundary of the Shropshire Hills AONB lies approximately 1km to the north of the site. The impact on the setting of the AONB is a material planning consideration.
- 6.7.2 The existing buildings on the site reflect the style of modern agricultural buildings and the proposed isolation box and horse walker is no different. The horse walker is a low level development, no larger than the approved lunge ring in diameter. In addition its design with open post and rail fencing to a height of approximately 2m would arguably have a lesser visual impact than the proposed 3m close bordered timber fencing which would be required for the lunge ring. The isolation boxes would be located alongside the horse walker and both elements viewed against the existing stock and stable buildings. Bearing this in mind it is judged that the visual impact of the proposed horse walker and isolation boxes would be nominal.
- 6.7.3 The Parish Council and third party objectors have raised concern than the dwelling and outbuilding are isolated and too separate from the current buildings and yard. The block plan indicates that the proposed dwelling and outbuilding would be sited to the north-east of the main yard and buildings which form the business and immediately alongside the nursery paddock and customer parking area. As such it is judged that the dwelling is closely associated with the yard and buildings and is in the most practical location without encouraging onto land required for the operation of the business. It is acknowledged the dwelling would occupy part of an open field at present, however additional landscaping is proposed in the form of a native hedge and additional tree planting. The size of the domestic curtilage of the dwelling is not considered unreasonable for the size of the dwelling proposed and its rural location.
- 6.7.4 As noted when the previous application was assessed there is a degree of prominence in the sites location. No public rights of way pass through the site and although it is inevitable that the site is visible from some public vantage points, such as the public highway and the rights of way to the north and south these are all some distance away and separated physically by the intervening landscape which also provides a degree of visual screening to the development.
- 6.7.5 In view of the character of the landscape in the area, it is unlikely that the proposed development will have an adverse impact upon the setting of the AONB or other

visual amenities in the area. Consequently, the proposed development, subject to appropriate materials and landscaping, would be consistent with Core Strategy Policy CS5 and SAMDev Plan Policy MD12.

6.8 Heritage Impact

- 6.8.1 As with the previous planning application concern has been raised that the development could harm the Norbury Conservation Area, in addition concern is also raised that the proposal would harm the setting of Linley Hall and its historic grounds, in particular the tree lined avenue.
- With regard to these heritage assets as “the crow flies” the conservation area is located approximately 800m away from the site to the north east. The avenue of trees lining one of the entrances to Linley Hall is approximately 0.5km to the west and Linley hall itself around 1.5km to the north west. The intervening landscape undulates and contains a number of hedges and mature trees (not including the trees making up the lined avenue). All of this combines to obscure views of the site from these assets. Although glimpses of the application site maybe had from the tree lined avenue it is also noted that there are other existing farms and farm buildings which pepper the landscaping and are part of the wider view. The application site cannot be viewed in the same context as the conservation area and the listed hall. Taking the above into consideration it is judged therefore, that the proposed development would not have any effect upon the heritage assets.

6.9 Drainage and Flood Risk

- 6.9.1 Policy CS18 seeks to ensure new developments do not cause drainage or flooding problems. Concern is raised that since the development of the site flooding has been exacerbated. It is understood that a surface water and foul drainage system has been installed in accordance with the previous permission and the agent has confirmed that the hard standing areas at the site are permeable surfaces. In terms of foul water drainage the dwelling seeks to utilise the existing septic tank installed for the mobile home. The Councils Drainage team have considered the scheme and raise no objection. It should also be noted that any drainage scheme would also need to comply with Building Regulations. Financial losses as a result of alleged flooding due to the development of the site is not a material planning consideration but a civil matter which would need to be resolved between the parties involved.

6.10 Highway Safety

- 6.10.1 The development subject to this application would be served by the existing access to which highway improvements were made following approval of the previous application. No further alterations are proposed to this access and it is not judged that traffic movements to and from the site as a result of the proposal would significantly increase. The alleged way in which the horses associated with this business are ridden on the highway is not a material planning consideration.

6.11 Other Matters

- 6.11.1 Suitability of site for keeping of animals and impact on adjoining land uses:

Objections have been raised that the land is not suitable for the keeping of animals and that the land use would harm adjoining land uses, including organic farming and grazing of cattle on an adjoining field. The principle of the equestrian use of this site has been accepted through the granting of the previous planning permission where the suitability of the land was also considered and it was judged that there was no evidence that the site is not suitable for livestock. The land uses of the site and the adjoining fields are all typical rural activities and how these uses are managed to work alongside each other is not a material planning consideration, particularly given this use has already been permitted and is not a matter for consideration under this application.

6.11.2 Publication of application:

Objection is raised that this application was not published, and the landowners of the adjoining lands surrounding the site not written to directly. Whilst the Council will write to properties which have a contiguous boundaries with application sites this can only be done where the property is close by and thus the address known. In the case of larger land holdings where there is no physical property adjacent the applicant site, the Council does not hold records to such landownership and thus site notices are erected to provide wider publicity to the application. In this case a site notice was erected on site although there is dispute as to how long the notice was left up for.

7.0 CONCLUSION

- 7.1 The essential need for a permanent dwelling and a bedsit to support the equestrian business here is considered to of been adequately demonstrated. Further the financial tests are meet and it is judged that the business use is viable and can support the cost of the dwelling and bedsit alongside labour costs. As such the scheme complies with SAMDev MD7a. The provision of the horse walker and isolation boxes is considered to be acceptable in principle as it is development to support an existing rural business.
- 7.2 The design, scale and siting of the dwelling, its associated outbuilding, horse walker and isolation boxes are considered to be acceptable and sited in an appropriate location adjacent to existing equestrian buildings. The scheme would not result in an adverse impact on the visual amenity of the area or the setting of the Shropshire Hills AONB. Further the scheme would not harm highway safety, exacerbate flooding risks or detract from the setting of heritage assets in the area.
- 7.3 Accordingly, the proposal is considered to comply with Shropshire Core Strategy policies CS5, CS6, CS13, CS17 and CS18; SAMDev policies MD7a and MD12; the Council's SPD on the Type and Affordability of Housing and the NPPF. It is as such recommended that planning permission is granted subject to conditions and completion of a S106 to secure an affordable housing contribution should it ever be demonstrated in the future that there is no functional need for the rural workers dwelling either from the original rural enterprise, or from other rural enterprises in the locality.

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
National Planning Practice Guidance

Core Strategy:
CS1 - Strategic Approach
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS17 - Environmental Networks
CS18 - Sustainable Water Management

Site Allocations and Management of Development Plan (SAMDev)
MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD7A - Managing Housing Development in the Countryside
MD7B - General Management of Development in the Countryside
MD12 - Natural Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

14/05768/FUL Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to to existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling GRANT 8th March 2016

16/02864/DIS Discharge of Conditions 3 (Landscaping), 4 (Materials) and 5 (Drainage) attached to Planning Permission 14/05768/FUL DISAPP 15th May 2018

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PBPRFWTDMOZ00>

Contact: Tim Rogers (01743) 258773

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Jonny Keeley
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.

3. Notwithstanding the detail on the approved block and site plan, this planning permission does not convey any permission for the permanent siting of the mobile home. The mobile home shall be removed from the site no later than 08th March 2019.

Reason: To comply with condition 13 attached to planning permission 14/05768/FUL where the mobile home was granted on a temporary basis to enable the Local Planning Authority to assess the viability of the business prior to the assessment of the need for a permanent dwelling.

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

4. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

5. All hard and soft landscape works shall be carried out in accordance with the approved plan drawing no 765/14/ 4B. The works shall be carried out prior to the first occupation/use the dwelling and associated garage hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

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

6. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no extension, garage, car port or other building/structure shall be erected or installed within the curtilage of the dwelling hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To help ensure that the dwelling remains of a scale commensurate with local agricultural needs, in accordance with Policies CS5, CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

7. The occupation of the dwelling hereby permitted shall be limited to a person or persons solely or mainly, or last working in equestrian activities or in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990 (as Amended)), or forestry in the locality, or to the spouse, widow or widower of such a person and to any resident dependents.

Reason: - The site is located in the open countryside and the development has been permitted solely because it is required to meet the essential need for a rural worker to live at or near to their place of work in the countryside.

8. The occupation of the bedsit hereby permitted shall be limited to a person or persons solely or mainly, or last working in the equestrian business or in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990 (as amended)), or in forestry in the locality or to the spouse, widow or widower of such a person and to any resident dependents. The bedsit accommodation shall not be sold or leased separately from the primary dwelling on the site.

Reason: - The site is located in the open countryside and the development has been permitted solely because it is required to meet the essential need for a rural worker to live at or near to their place of work in the countryside; and to safeguard the amenities of the primary dwelling.

9. The ground floor of the garage hereby approved shall be used for domestic garaging and storage associated with the dwelling and bedsit hereby permitted. At no time shall it be used as additional living accommodation for the dwelling or bedsit hereby approved.

Reason: To ensure that the dwelling which this garage serves remains of a scale commensurate with local agricultural needs.

Informatives

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.