



Committee and date

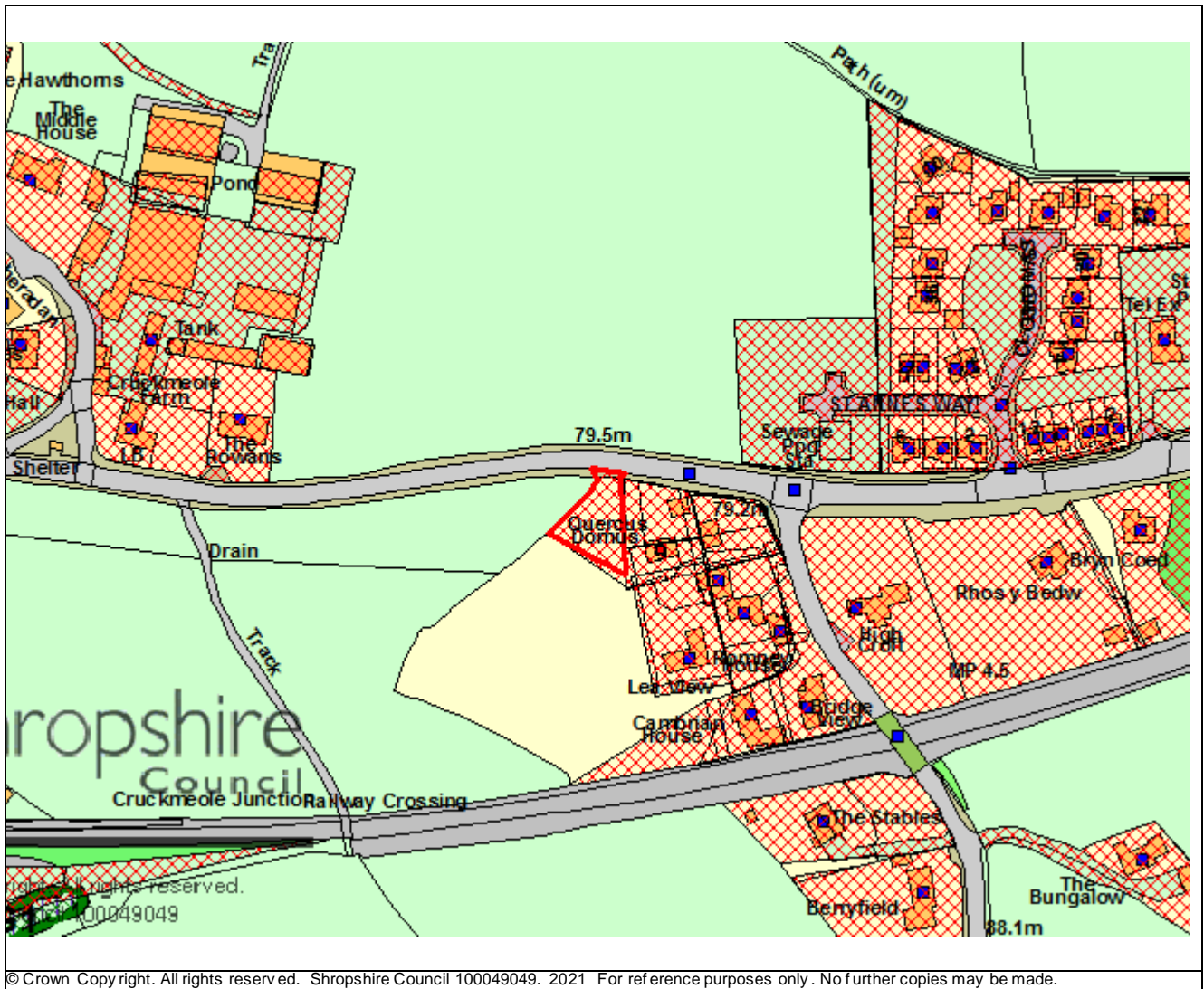
Item
Public

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 23/02219/FUL	Parish:	Pontesbury
Proposal: Change of use of agricultural land to residential and reinstatement of existing access		
Site Address: Quercus Domus, Pound Lane, Hanwood, Shrewsbury, SY5 8JR		
Applicant: Mr Jack Goodall		
Case Officer: Jacob Collett	email	:
	jacob.collett@shropshire.gov.uk	
Grid Ref: 343402- 309355		



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Recommendation:- Refuse

REPORT

1.0 THE PROPOSAL

The submitted application proposes the change of use of agricultural land to facilitate a new access off the A488.

The original two-bedroom dwelling was first approved as a single plot exception site in 2013 (13/01656/FUL) Since this permission an application was made under 18/04951/VAR to remove condition 8 which limited the internal floorspace to 100sqm. This was refused, and then appealed. The appeal was upheld with the inspector also removing conditions 9 &10 which dealt with the removal of permitted development rights and use of the garage respectively. The inspector's position was that the section 106 upheld the affordable status of the dwelling, not

the restriction in size. It is noted that this was in context of the building size not the plot size, an important difference. An application to extend the dwelling was also approved by planning committee under 23/01602/FUL.

In 2021 another application was submitted under 21/03707/VAR for the variation of condition 2 to allow amendment to the detached garage. This was refused at planning committee and subsequently appealed. The appeal was upheld.

2.0 SITE LOCATION/DESCRIPTION

The application relates to a two storey (affordable) dwelling set to the west of a property called Romney House close to the junction of Pound Lane and the A488 in the western part of Hanwood to the South-West of Shrewsbury. The property shares an access with Romney House which is off Pound Lane and there are no other immediate neighbours.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 In accordance with the 'Scheme of Delegation' as the applicant indirectly reports to the Assistant Director of Place the application must be determined by planning committee.

4.0 Community Representations

A Site notice was displayed at the Site on the 12th June 2023

Pontesbury Parish Council

:Pontesbury Parish Council oppose this application because in several incidences the information presented is incorrect or misleading, particularly with regard to the position of the proposed entrance, which is sited West of the existing entrance, therefore this is in essence a new access.

The application is also retrospective, in that the agricultural land is already in use as a garden amenity area, currently there is a wooden boundary fence which is not shown on the plan. The proposed access is on a dangerous bend, a most dangerous location. Visibility splays as stated are incorrect. There is currently a safe existing access off Pound Lane and there appears to be no good reason to have a second access on a dangerous road.

The Parish Council are opposed to the extension of the garden into good agricultural land, such an extension would be contrary to the emerging Neighbourhood Plan.

SC Highways

The proposal seeks to change the land use to the west of the property to residential curtilage and to reopen a former vehicle access to the site. With regard to the former, highway raise no objection. In relation to the later, the site

is currently accessed via a shared access off Pound Lane and approval for that dwelling was based upon the current access arrangements.

With regard to the assertion that the proposed direct access onto the A488 is to reopen a former access, Highways would question the existence and planning history of there being an established access. Google Street View images suggest that there was no filed access in existence in 2009, but in 2016, 2017 and 2021 field gates are shown on the images. It is unclear of the history of this field access or its planning status. It is noted that the Parish Council have raised highway safety concerns and Highways would agree with the concerns raised.

The site access is located immediately adjacent to the west of the 30 mph speed limit which changes to 60mph and therefore drivers would tend to accelerate out of the 30mph travelling in a westerly direction. Whilst it would appear that adequate visibility is achievable in a easterly direction from the access, in a westerly direction visibility is restricted by the adjacent field boundary hedge and horizontal alignment of the carriageway and considered well below the standards set out in both DMRB and Manual for Streets 2. The presence of solid double lines is a key indicator that forward visibility is inadequate.

It is considered therefore that the reopening of the proposed access raises significant highway safety concerns and without any compelling evidence of the status of the alleged former access, Highways are opposed to the access being created to serve the property and where a safer and adequate means of access is available via Pound Lane. Moreover, in connection with the development of the dwelling under a previous consent, Highways would not have been supportive of establishing a direct access to the property via the A488 to serve the dwelling constructed.

Highways therefore recommend permission is refused

5.0 THE MAIN ISSUES

Principle of development

6.0 OFFICER APPRAISAL

Principle of Development

The proposed development compromises two components, the first being the new access.

The application suggests the access is the reinstatement of an existing, however this is queried. A field gate does exist and has done since 2016 based on google map evidence, but the formal planning status of this is not defined where no approval has been issued by Shropshire Council. The access is therefore considered as a new proposal. In agreement with the highways officer the access location is unsafe where there is a lack of sufficient visibility for the road speed. This represents a reason for refusal. The dwelling remains to have sufficient access from Pound Lane.

The second consideration is the conversion of agricultural land to residential use.

The proposed change of use of existing agricultural land to domestic land of the size proposed (circa 300sqm) and not in association with any other development is not supported in principle. The proposal is determined to be contrary to Shropshire Councils adopted policies.

Adopted policies C5 and MD7b outline support for development that respect the local context and character where maintenance of the countryside setting is paramount

Considering the sites existing plot size, location and the overall setting it is concluded that the loss of countryside land within the rural landscape is unnecessary and a need for the change of use has not been demonstrated in any way other than for individual benefit. The residential land extension will result in an unusually shaped field and domestication of the countryside alongside associated domestic paraphernalia on the land. There is already sufficient amenity space for the dwelling. These incremental additions into the countryside for no weighted justification are considered harmful to its vitality through continued erosion. Furthermore, the scheme will provide no benefits to the existing landscape or local setting and will result in adverse harm to the rural setting. The proposed change of use is also not proposed in association with any other development that would result in any wider economic or societal benefits which would provide weighting in its favour.

The site is subject to a section 106 agreement. Previous appeal decisions have clarified that conditions restricting the size of the dwelling are inappropriate where different sizes of affordable dwellings are needed, and it is the section 106 which maintains the affordability. However, it is not considered this applies to the overall plot size where there is sufficient amenity space for the dwellings current size and when including the recent extension addition. An extension of residential land would make the dwelling less affordable, contrary to the original permission. Therefore, support for the domestic land extension would compromise the section 106 in maintaining the site as an affordable dwelling and the original approved boundary should be maintained in perpetuity.

7.0 CONCLUSION

It is recommended that the application is refused. The recommended refusal reasons are:

The change of use would lead to the inappropriate domestication of the open countryside. The formalisation of a new access and subsequent use of the land will cause harm to the rural character setting where the residential impact of the site will be significantly increased and intensified through the introduction of domestic paraphernalia. The resultant dwellings plot would also not be reflective of the layout or form of the dwellings adjacent where its protrusion is harmful.

Consequently, the proposal is contrary to the NPPF, Core Strategy Policies CS5, CS6 and SamDevs policies MD2 and MD7b.

The proposal to increase the plot size of the local needs affordable dwelling has not been justified in this instance, where it would compromise the affordability of the dwelling which is in part maintained through its plot size, defined within the section 106. There is also sufficient amenity space for an affordable dwelling without needing further extension. This is contrary to Core Strategy Policies CS4, CS5, & CS11 and SAMDev Policies MD3 & MD7a and the Adopted Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document (SPD).

Visibility is restricted from the proposed access onto the A488 in an easterly direction due to the adjacent field boundary and horizontal alignment of the highway carriageway. The formation and use of the proposed access to serve the dwelling would lead to conditions detrimental to highway safety.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

MD2 – Sustainable Development

MD7B - General Management of Development in the Countryside

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

PREAPP/12/00448 Erection of a dwelling NPW 22nd April 2013

PREAPP/12/00454 Single plot exception site PREAIP 13th November 2012

13/01656/FUL Erection of a 2-bed affordable dwelling and detached double garage

GRANT 18th June 2014

14/04658/DIS Discharge of Conditions 3 (External Materials), 4 (Boundary Treatments), 5 (Foul & Surface Water) and 6a (Land Contamination) on Planning Permission 13/01656/FUL for the erection of a 2-bed affordable dwelling and detached double garage DISAPP 25th November 2014
 18/04951/VAR Removal of Condition No.8 (gross internal floor area) attached to planning permission 13/01656/FUL - Erection of a 2-bed affordable dwelling and detached double garage REFUSE 20th December 2018
 20/00996/DSA106 Discharge of S106 agreement attached to planning permission reference 13/01656/FUL WDN 11th November 2020
 21/03707/VAR Variation of condition 2. to allow for amendments to the existing garage. REFUSE 14th December 2021
 23/01602/FUL Erection of two storey extension and alterations PDE
 23/02219/FUL Change of use of agricultural land to residential and reinstatement of existing access PCO

Appeal

19/02711/REF Removal of Condition No.8 (gross internal floor area) attached to planning permission 13/01656/FUL - Erection of a 2-bed affordable dwelling and detached double garage ALLOW 6th June 2019

Appeal

22/03015/REF Variation of condition 2. to allow for amendments to the existing garage. ALLOW 30th March 2023

1. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RT0LE2TDG7400>

List of Background Papers (This MUST be completed for all reports, but does not include if containing exempt or confidential information)
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member
Cllr Roger Evans
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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).

The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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 BEFORE THE DEVELOPMENT COMMENCES

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

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

Informatives

1. In arriving at this decision Shropshire 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 the National Planning Policy Framework, paragraph 38.

