

## Development Management Report

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### Summary of Application

<b><u>Application Number:</u></b> 14/03025/OUT	<b><u>Parish:</u></b> Ruyton XI Towns
<b><u>Proposal:</u></b> Outline planning application for the erection of 1no. dwelling with garage to include access	
<b><u>Site Address:</u></b> Proposed Dwelling Rear Of The Talbot Inn Church Street Ruyton Xi Towns Shropshire	
<b><u>Applicant:</u></b> Mr Steve Jennings	
<b><u>Case Officer:</u></b> Joe Crook	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 339201 - 322159



**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to the applicants entering into a S106 agreement.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The proposed development is for outline planning permission for the erection of 1 dwelling with garage to include access.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located off Church Street and is a flat rectangular plot of land to the rear of the Talbot Inn in the centre of Ruyton XI Towns. It is within the curtilage of the Talbot Inn which is a Grade II listed building but is in separate ownership. The site is accessed through the Talbot Inn Car Park and is bounded by a two storey primary school to the east, high level established trees to the south and gardens, tennis court and Hall Farm Grange houses to the west.

- 2.2 A number of previous applications have been made relating to the site, with permission granted for the erection of detached guest accommodation associated with the Public House (12/04145/OUT) with planning permission recommended for refusal the same year for three dwellings on the remainder of the site (12/04144/FUL) and withdrawn just prior to Planning Committee. It is also noted that applications relating to the conversion of the former barn and stable on the site were also approved for a dwelling, and a holiday let (12/00161/FUL and 12/04126/FUL).

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 To be considered by the Committee Chair and Principal Planner.

### 4.0 Community Representations

#### - Consultee Comments

Ruyton XI Towns Parish Council agreed that the proposed 4 bedroom dwelling did not meet the needs identified by the Parish in its Parish Plan and subsequent SAMDev submission to SC. Primarily because the community had identified a need for smaller affordable homes in the parish. The proposed dwelling was also noted as not having any links to the Talbot Inn; a local viable business.

When considering National Planning Policy Framework the substandard access to the proposed property was considered to be unsustainable and the Parish Council placed reliance upon previous comments made by SC Highways (re planning application Ref 12/04144/FUL) which relates to a recent past application:

The proposal is served by means of an exiting access which is considered to be substandard in terms of its restricted visibility and junction layout with the adjoining Class II county road. It is considered therefore that the additional vehicular movements into and out of the site access generated by the residential development, would be likely to result in conditions detrimental to highway safety.

The application is therefore opposed by the Parish Council.

SC Archaeology – The proposed development site lies within the historic core of Ruyton XI Towns as defined by the Central Marches Historic Towns Survey, and within an area of probable medieval burgage plots that were established when the town was founded in the early 14th century (HER PRN 05204). The information contained in the Heritage Statement submitted in support of the application, together with the historic map extracts contained within the Planning Statement which accompanies this application, indicated that the proposed development site remained open and undeveloped throughout most of the 19th century. However, the earlier history of the site remains unknown and there is therefore some potential for archaeological remains relating to the medieval and later development of the town to be present. A programme of archaeological work to comprise an archaeological watching brief during all ground works is recommended to be made a condition of any planning permission for the proposed development.

SC Conservation – No objection in principle given the previous permission for guest accommodation in conjunction with the public house use. The indicative design is not considered wholly acceptable and although some work on appraising the character of the village in that area has been done, the design put forward does not give any indication that the appraisal has been used to provide a design philosophy for the proposed building. The proposed building should reflect the local vernacular detail in terms of scale, details, materials and layout, however, it is also important that it responds to the character and layout of its context and setting in relation to the listed and curtilage listed buildings on the site.

SC Drainage – Surface water drainage details to be submitted, recommend conditions and informatives.

SC Trees - No objection in principle on the grounds of trees - there are no trees within the site. There are however mature trees adjacent to the south boundary of the site shown as retained. In order to protect the root protection areas encroaching into the site a Tree Protection Plan (TPP) should be submitted in line with BS 5837:2012 for a full application to demonstrate that these trees will not be damaged by the proposals.

SC Public Protection - Having considered the proposed development it is noted that there are already residential properties in as close proximity to the Talbot Inn, a potential source of noise, as the proposed dwelling. Having discussed the public house with a licensing officer we are not aware of any noise complaints and therefore have no comment on this application as it is not likely that noise from

existing sources will have an effect on the proposed dwelling. However, as a precaution it is recommended that the applicant considers the noise reducing properties of glazing and layout of the rooms in the proposed property to ensure that noise from existing sources is as far from sensitive rooms as possible (bedrooms) and that future complaints are unlikely.

SC Affordable Housing - Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

SC Ecology – No objections subject to conditions and informatives following submission of an updated ecology report.

SC Highways - The application site benefits from a planning permission 12/04145/OUT to construct 4 guest accommodation rooms. Notwithstanding the deficiencies of the access as has been set out in previous advice on this site, the highway authority raised no objection to this application on the basis that the proposed guest accommodation would be linked to the Talbot Inn.

In respect of the current application which now seeks permission for a single dwelling and would therefore supersede the 12/04145/OUT permission, which sought 4 guest accommodation rooms to the rear of the PH car park. You will recall however that the highway authority raised a highway objection to application 12/04144/FUL on the basis that 3 dwellings and resulting traffic would increase highway safety issues having regard to the substandard Talbot Inn access onto the Class II road.

With regard to the current application seeking a single dwelling, notwithstanding the previous highway advice relating to the substandard Talbot Inn access, the highway authority consider that an objection on highway safety grounds is less compelling than in the case when 3 dwellings were being promoted and in relation to the consent issued for the 4 guest accommodation rooms.

As set out in the NPPF the highway authority must be able to demonstrate that the highway impacts of the development proposal are severe. In this particular case the nub of the issue surrounds the cumulative impact of the proposed development in terms of the additional traffic movements at the substandard Talbot Inn junction.

Having regard to the above the highway authority consider that it would be difficult to sustain a highway objection based upon a single dwelling replacing planning consent 12/04145/OUT which sought guest accommodation.

- Public Comments

6 objections have been received which raised the following material planning

considerations:

- There are significant highways issues with regard to the access for the site.
- The previous application for guest accommodation was granted solely because of its linkage to the Talbot.
- The application for 3 dwellings on the same site as the current application was refused because of the design, detail and negative impact on the Grade II listed building as well as on highways grounds. The same traffic patterns are relevant for this single dwelling.
- The indicative design of the new house is unsympathetic with regard to the grade II listed public house.
- The access has been considered substandard previously and this has not changed.
- The previous permission for guest accommodation tied to the public house should not be used as a trade off for a new standalone residential dwelling.
- SC Highways would be failing in its duty to maintain an acceptable level of safety by this application and the potential for accidents to occur at an access with substandard visibility.
- The development will restrict any future outdoor activities held in the pub grounds.
- Car parking for large events will become severely restricted.
- The Talbot could be the only public house left in this growing village soon.
- There has already been a significant amount of development in the village with permission for a further 100 houses.
- The previous approval was only allowed on the basis of it being an integral part and incidental to the existing pub, and only for holiday accommodation.
- The Parish Council did not object to the previous application purely due to its tie to the public house.
- The principle for residential development has not been set through previous approvals.

## 5.0 THE MAIN ISSUES

Principle of development

Design, scale and impact on grade II listed building

Highways

Ecology

Trees

Archaeology

Neighbouring amenities

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Saved Policy H5 of the adopted Oswestry Borough Local Plan is a relevant saved policy from the Oswestry Borough Plan and allocates Ruyton XI Towns as a larger settlement where housing is acceptable on suitable windfall sites within the development boundary. The site is located within the development boundary for Ruyton XI Towns shown within both the Oswestry Borough Plan as well as the Site Allocation and Management of Development document where it is being promoted as a 'Hub' under Core Strategy policy CS4. The proposal is therefore considered acceptable in principle. CS11 and the adopted Housing SPD requires a contribution to affordable housing and a S106 will be required to secure this.
- 6.1.2 It is noted that the Parish Council have commented that the proposed dwelling does not have any links to the Talbot Inn, a local viable business. However, this in itself is not a reason for refusal of the scheme and the principle of the development being acceptable is not altered by its lack of tie to the public house, subject to consideration of the wider issues associated with the development.
- 6.2 Design, scale and impact on grade II listed building
- 6.2.1 Objections to the scheme refer to the potential detrimental impact on the character and setting of the grade II listed public house, and refer to the fact that part of the reason for the previous refusal for three dwellings at the site related to the detrimental impact of the development on the listed building. Furthermore it is commented that the design, scale and visual appearance of the dwelling is insensitive to the listed building and inappropriate.
- 6.2.2 Whilst the above comments are acknowledged, there has been no objection in principle from the Conservation Officer who has taken into account the approval for the holiday accommodation on the plot within their response. Whilst objectors have commented that this would be tied to the public house and therefore does not render a standalone dwelling acceptable, clearly from a visual perspective the Conservation Officer has to take into account that a building could be constructed on the site when taking into consideration the development now proposed. The Conservation Officer has commented that the indicative design details submitted for the dwelling are not considered wholly acceptable and the design put forward does not give any indication that the submitted appraisal has been used to provide a design philosophy for the proposed building. However, detailed design for the scheme will be considered at reserved matters stage and there are no objections to a dwelling in this location subject to the building reflecting the local vernacular detail in terms of scale, design, materials and layout, and with due consideration to the context and setting in relation to the listed and curtilage listed building on the site. As such it is considered that a scheme that accords with policies CS6 and CS17 of the Shropshire Core Strategy can be achieved which is sensitive to the character and setting of the listed building and curtilage buildings, and will be given due consideration at reserved matters stage.
- 6.2.3 With regard to the previous recommendation for refusal (withdrawn prior to being determined) for three dwellings on the site, the Officer report commented that there were no objections to the general siting and overall form of the development with the recommended refusal based on concerns regarding aspects of the design detail and materials, as well as highways matters. Any adverse impact on the Grade II listed building was based on a lack of traditional design features and inappropriate

materials. Evidently the design details will be determined at reserved matters as discussed above, and in terms of the siting and form of the development, this will be for a single dwelling rather than three dwellings with additional guest accommodation on the same site as previously proposed. As such it is considered that the previous recommendation for refusal for residential development at the site does not set a precedent for restricting any residential development at the site in terms of design or impact on the setting of the Grade II listed building. Furthermore the scheme is not considered to represent an overdevelopment of the site now the proposal is reduced to a single dwelling compared with the previous applications for a much higher density of development.

6.2.4 Whilst the Parish Council have commented that the proposed 4 bedroom dwelling does not meet the needs identified by the Parish in its Parish Plan and subsequent SAMDev submission to the Council as they had identified a need for smaller affordable homes in the parish, this is not considered to represent a reason for refusal of the scheme in itself. The need for smaller properties is acknowledged but the application is for a single dwelling, and it is noted smaller properties were proposed in relation to the refused scheme, which was also objected to and subsequently withdrawn.

### 6.3 Highways

6.3.1 A significant number of concerns have been raised in relation to highways issues regarding inadequate access and visibility, and detriment to highway safety. However, with regard to this the Highways Manager has commented that, whilst acknowledging the substandard access currently in use as well as previous permission for the guest accommodation, the highway authority consider that an objection on highway safety grounds is less compelling than in the case when 3 dwellings were being promoted and in relation to the consent issued for the 4 guest accommodation rooms. As set out in the NPPF the highway authority must be able to demonstrate that the highway impacts of the development proposal are severe. In this particular case the issue surrounds the cumulative impact of the proposed development in terms of the additional traffic movements at the substandard Talbot Inn junction. The highway authority therefore consider that it would be difficult to sustain a highway objection based upon a single dwelling replacing planning consent 12/04145/OUT, which sought guest accommodation. Given the previous approval granted and its associated vehicle movements, and the above consideration of the Highways Officer, it is considered that the scheme could not be refused on highways grounds for the reasons set out above.

### 6.4 Ecology

6.4.1 Following the submission of an updated ecology report the planning ecologist has not objected to the scheme subject to conditions and informatives.

### 6.5 Trees

6.5.1 The Trees Officer has requested that a tree protection plan be submitted as part of the reserved matters in relation to the mature trees adjacent to the southern boundary of the site shown as retained. This should be in line with BS 5837:2012 and demonstrate that these trees will not be damaged by the proposals. This will be included as a condition.

## 6.6 Archaeology

6.6.1 The Council Archaeologist has requested a condition relating to a Written Scheme of Investigation and watching brief in light of the site being located within the historic core of Ruyton XI Towns dating from the 14<sup>th</sup> Century. This condition will be included.

## 6.7 Neighbouring amenities

6.7.1 Given that the site will be located adjacent to a school and open land, and is over 21 metres from any neighbouring properties, it is considered that the impact in amenity terms will be minimal.

6.7.2 With regard to the issues raised relating to the public house losing associated parking and green space, this is acknowledged but there will still be sufficient space outside the rear of the public house to be used for seating, parking etc and in this regard it is not considered to be a reason for refusal of the scheme given the level of associated amenity space that will remain.

## 7.0 CONCLUSION

The proposed dwelling is considered to be acceptable in principle and it is not considered that the construction of a dwelling in this location will be detrimental to the character and setting of the Grade II listed Talbot Inn, subject to appropriate design details and materials being submitted at reserved matters stage. There is not considered to be a detrimental impact in terms of neighbouring amenities or protected species and there is no objection from the Highways Authority with regard to the use of the access for an additional dwelling, in light of previous approvals granted. As such the scheme is considered to be acceptable in accordance with policies H5 of the Oswestry Borough Plan, CS4, CS6, CS11 and CS17 of the Shropshire Core Strategy as well as the National Planning Policy Framework. 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 the National Planning Policy Framework paragraph 187.

## 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 three months 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:

## NPPF

## Core Strategy and Saved Policies:

- CS4 - Community Hubs and Community Clusters
- CS6 - Sustainable Design and Development Principles
- CS11 - Type and Affordability of housing
- CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

- OS/97/09755/LBC Part demolition of barn and car port, associated reinstatement/repair/replacement works to walls, roof and rainwater goods; window and door openings boarded over GRANT 16th April 1997
- OS/99/10846/LBC Alterations and single storey extension to outbuilding to form function room with toilet facilities GRANT 29th March 2000
- OS/85/4283/FUL Erection of an extension to provide lobby and improved toilet accommodation GRANT 4th October 1985
- OS/85/4349/FUL Change of use of domestic living room to public lounge bar GRANT 6th February 1986
- OS/87/5108/ADV Display of a double-sided hanging, projecting pictorial sign, and a letter sign, both externally illuminated and a lantern, on the front elevation and one letter sign on the side and rear elevation both externally illuminated GRADV 9th December 1987
- OS/89/6503/FUL Replacement outbuilding and erection of new single storey kitchen extension GRANT 17th November 1989
- OS/89/6504/LBC Replacement of outbuilding forming freezer and bottle store and erection of single storey kitchen extension GRLBC 17th November 1989
- OS/93/8365/LBC Remove specified existing signs and illumination and replace with new GRLBC 1st October 1993
- OS/93/8366/ADV Remove specified existing signs and illumination and replacement with new GRADV 1st October 1993
- 11/00818/LBC Internal and external alterations in connection with provision of en-suites to existing letting bedrooms and installation of extraction equipment affecting a Grade II Listed Building GRLBC 13th April 2011
- 11/03232/LBC Alterations in association with conversion of barn to letting rooms affecting a Grade II Listed Building WDN 17th August 2011
- 12/00161/FUL Conversion of former barn and stable into self-contained dwelling GRANT 11th April 2012
- 12/00162/LBC Alterations in association with conversion of former barn and stable into self-contained dwelling GRANT 11th April 2012
- 12/04126/FUL Conversion of former barn and stable into self contained holiday home (Amendment to consented scheme 12/00161/FUL & 12/0162/LBC) GRANT 3rd December 2012
- 12/04127/LBC Conversion of former barn and stable into self contained holiday home (Amendment to consented scheme 12/00161/FUL & 12/0162/LBC) GRANT 3rd December 2012
- 12/04144/FUL Erection of three residential dwellings, associated landscaping and carparking. (One dwelling to be an affordable rented unit) WDN 7th March 2013

12/04145/OUT Outline application for the erection of detached guest accommodation associated with the Talbot public house to include access, landscaping and scale  
GRANT 9th January 2013

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)
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Cllr M. Price
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Local Member
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Cllr Nick Bardsley
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Appendices
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APPENDIX 1 - Conditions
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**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The means of enclosure of the site  
The levels of the site  
The means of access for disabled people  
The drainage of the site  
The finished floor levels  
Tree Protection Plan (TPP) submitted in line with BS 5837:2012

Reason: To ensure the development is of an appropriate standard.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

5. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The development site is known to have archaeological interest.

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

6. A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds.

7. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

Reason: To minimise disturbance to bats, a European Protected Species.