

## Development Management Report

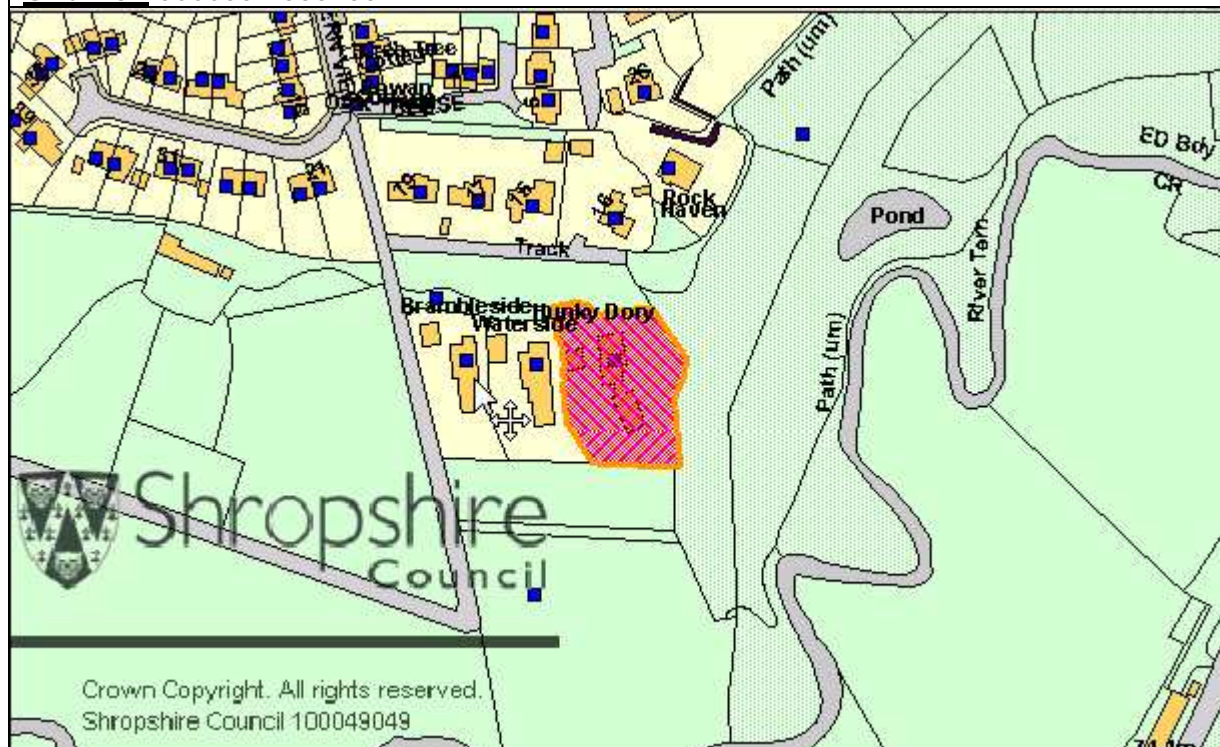
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 15/01386/COU	<b><u>Parish:</u></b> Market Drayton Town
<b><u>Proposal:</u></b> Application under Section 73a of the Town and Country Planning Act 1990 for the change of use of swimming pool for the provision of swimming lessons (retrospective)	
<b><u>Site Address:</u></b> Hunky Dory Tern View Market Drayton Shropshire TF9 1DU	
<b><u>Applicant:</u></b> Mr & Mrs C Williams	
<b><u>Case Officer:</u></b> Alison Groom	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 366655 - 333100



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**Recommendation:- Refuse for the following reason**

1. It is considered that the proposed change of use is inappropriate due to the frequency of the lessons to be carried out, which will result in the proposal having a detrimental impact upon the residential and neighbouring amenity of the area. Furthermore the change of use will impact upon the shared private access to the site also, therefore is contrary to Policies CS6 of the Shropshire Core Strategy and the aims and provisions of the NPPF.

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

- 1.1 Application under Section 73a of the Town and Country Planning Act 1990 for the change of use of swimming pool for the provision of swimming lessons (retrospective)
- 1.2 The proposed dwelling house and swimming pool were given planning approval on the 19.12.2002. The applicant has stated that the pool has been used to provide swimming lessons for the past three years.
- 1.3 Due to the small size of the pool (approx. 12m long x 4m wide) the pool is only suitable for beginner's lessons and not recreational swimming.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Hunky Dory is a modern house which was one of three properties built 2004 by the applicants. The house is an innovative design over two levels and contains a modest sized swimming pool which has been used by the applicants and their family.
- 2.2 The site is situated off a private road which links with 'Bottom Lane', which provides direct access onto Tern View. The site is located to the south of Market Drayton, approximately 2 miles away from the town centre.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The officer recommends the application for refusal which is contrary to the Parish Council's recommendation to support the scheme. Therefore Cllr Minnery, has asked that the application to be determined at the local planning committee and this request has been confirmed with the Chair of the planning committee.

**4.0 Community Representations****4.1 Consultee Comments****4.1.1 SC Highways**

The means of access to the site is via a restricted byway which forms a junction with the adopted highway, Tern View to the north of the site. The route is typically of single vehicle width and the Highway Authority would not wish therefore to see a significant increase in use of this access route which could be promoted by a general leisure pool facility. The size and design of the swimming pool in effect limits the number of swimmers and type of swimming lesson that can be held but ultimately the number of associated traffic movements would be determined by the scale of the hours of operation that are permitted.

Whilst the context of the proposal does not raise any significant highway safety concerns, in light of the comments above the Highway Authority would suggest that permission be granted for a temporary 2 year consent based upon the hours of operation being controlled.

## **4.2 Public Comments**

### **4.2.1 Parish Council**

To raise no objection to this application.

### **4.2.2 Neighbour Comments – 2 Letter of objection received**

- Number & frequency of lessons
- Use of the shared access
- Increase in traffic
- Single track to the site with bad visibility
- Number of vehicles parked at the site at any one time
- Impact to highway safety
- Noised caused from every vehicle passing the neighbouring site is heard
- Loss of privacy due to people constantly passing the neighbouring sites
- Damage to the shared access
- Visually the site becomes a parking lot

## **5.0 THE MAIN ISSUES**

Principle of development

Impact to the Highway and Parking

Impact on Residential Amenity

Clarification of Lesson Schedule

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Policy CS8 'Facilities, Services and Infrastructure Provision' of the Shropshire Core Strategy indicates that the development of sustainable places in Shropshire with safe and healthy communities where residents enjoy a high quality of life will be assisted by protecting and enhancing facilities, services and amenities that contribute to the quality of life of residents and visitors.

6.1.2 Policy CS13 'Economic Development, Enterprise and Employment' of the Shropshire Core Strategy states "Shropshire Council, working with its partners, will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities"

6.1.3 Policy CS16 'Tourism, Culture and Leisure' of the Shropshire Core Strategy seeks to deliver high quality, sustainable tourism, and cultural and leisure development, which enhance the vital role that these sectors play for the local economy, benefits local communities and visitors, and is sensitive to Shropshire intrinsic natural and built environment qualities, supporting new and extended tourism development, and cultural and leisure facilities, that are appropriate to their location, and enhance and protect the existing offer within Shropshire.

6.1.4 The proposal is supported by the above policies subject to Policy CS6 'Sustainable

Design and Development Principles' of the Shropshire Core Strategy, which is addressed in more detail below.

## **6.2 Impact to the Highway and Parking**

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all. Policy D7 'Parking Standards' of the North Shropshire Local Plan is still a saved policy and indicates that all development should provide an appropriate level of vehicle parking to avoid on street parking and increasing traffic problems.

6.2.2 As indicated on the plan submitted the site does have a sufficient turning area and parking provision for the pupils attending the lessons, however this does mean crossing a shared private access which has resulted in the wearing away and damage being caused to the shared access already, which is owned and used by two other properties.

6.2.3 Following clarification from the applicant they have confirmed that on average traffic will pass across the shared access a maximum of 182 times per week and a minimum of 156 times, for 40 weeks of the year with additional lessons being held during the school summer break which can be up to 6 weeks. This is a considerable increase in traffic crossing the private shared access for three dwellings.

6.2.4 The means of access to the site is via a restricted byway which forms a junction with the adopted highway, Tern View to the north of the site. The route is typically of single vehicle width and the Highway Authority would not wish therefore to see a significant increase in use of this access route which could be promoted by a general leisure pool facility. The size and design of the swimming pool in effect limits the number of swimmers and type of swimming lesson that can be held but due to the frequency and number of lessons proposed each week and the associated traffic movements this application cannot be supported.

## **6.3 Impact on Residential Amenity**

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

6.3.2 The swimming pool is already in place and the application is to allow the use of the pool for private swimming lessons. Therefore structurally there will be no impact caused to the property or surrounding amenity. The applicant has stated that the business has been running for the past three years without complaint.

6.3.3 It is proposed that the swimming lessons will take place:  
Monday to Friday, 9am to 11am, 1pm to 3pm and 4pm – 7pm in the evening and Saturday morning 8:30am – 12noon, with a maximum of 6 pupils per class, each lesson is for the duration of 30 minutes, the applicant has provided a detailed breakdown of the average weekly occurrence of a total of 32 lessons taking place, which

will result in traffic passing across the shared access a maximum of 182 times per week and a minimum of 156 times, for 40 weeks of the year with additional lessons being held during the school summer break which can be up to 6 weeks.

- 6.3.4 Due to the site location and the number and frequency of the classes being held, the proposal will cause great disruption, harm and impact to the neighbouring amenity, resulting in the increase of passing traffic, noise, loss of privacy and increased wear and tear to the shared private access, the harm to the residential amenity is too great and therefore this application cannot be supported.

## 7.0 CONCLUSION

It is considered that the proposed change of use is inappropriate due to the frequency of the lessons to be carried out, which will result in the proposal having a detrimental impact upon the residential and neighbouring amenity of the area. Furthermore the change of use will impact upon the shared private access to the site also, therefore is contrary to Policies CS6 of the Shropshire Core Strategy and the aims and provisions of the NPPF.

## 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:**

NPPF

#### **Core Strategy and Saved Policies:**

CS6 Sustainable Design and Development Principles

CS8: Facilities, Services and Infrastructure Provision

CS13: Economic Development, Enterprise and Employment

CS16: Tourism, Culture and Leisure

## 11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Roger Hughes Cllr David Minnery