



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 21 September 2015

Committee:
North Planning Committee

Date: Tuesday, 29 September 2015
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
John Cadwallader
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes
VACANCY

Your Committee Officer is:

Shelley Davies Committee Officer
Tel: 01743 257718
Email: shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on Wednesday, 2nd September 2015, attached, marked 2.

Contact: Emily Marshall on 01743 257717.

3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Land South Of Bletchley Court Bletchley Market Drayton - 15/02089/FUL (Pages 7 - 22)

Erection of one dwelling with detached garage and vehicular access.

6 Old Station Yard, Brownlow Road, Ellesmere - 14/01744/OUT (Pages 23 - 34)

Outline application (all matters reserved) for mixed residential development; formation of estate roads.

7 Pear Tree Farm, Broadhay Lane, Lower Heath, Prees - 15/02817/VAR (Pages 35 - 44)

Variation of condition 5 attached to planning permission reference 15/01907/AMP to allow revised plans and elevations to be submitted.

8 Proposed Residential Development Land Between Aston Road and Church Lane, Wem - 14/03428/OUT (Pages 45 - 52)

Outline application for the erection of 50No dwellings (to include access).

9 Richardson Bros, Brookside, Morda, Oswestry - 15/03386/COU (Pages 53 - 60)

Change of use from B2 to a mixed use of B1, B2 and B8 (storage).

10 Appeals and Appeal Decisions (Pages 61 - 62)

11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 27th October 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and Date

North Planning Committee

29th September 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 2 September 2015

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 3.40 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, John Cadwallader, Peter Cherrington (substitute for Pauline Dee), Gerald Dakin, Steve Davenport, Vince Hunt, David Minnery and Peggy Mullock

47 Apologies for Absence

An apology for absence was received from Councillor Mrs. P. Dee (substitute: P. Cherrington) and Councillor David Lloyd.

48 Minutes

That the Minutes of the meeting of the North Planning Committee held on 4th August 2015 be approved as a correct record and signed by the Chairman.

49 Public Question Time

There were no public questions, statements or petitions received.

50 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

Councillor Gerald Dakin declared his interest in Planning Application 13/03481/OUT as he owned a property on Mile Bank, Whitchurch and left the room during consideration of and voting on the application.

51 Land South Of Hollins Lane, Newport Road, Woodseaves, Market Drayton (15/00924/EIA)

The Principal Planning Officer introduced the application for the erection of two poultry sheds and feed bins, ancillary works including access track and associated landscaping works and confirmed that the Committee had undertaken a site visit that

morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters, which included confirmation that an Environmental Permit had been issued and a suggested additional condition in relation to landscaping and biodiversity.

Having considered the submitted plans the committee unanimously expressed their support for the application.

RESOLVED:

That planning permission be **granted** in accordance with the Officer's recommendation, subject to the Conditions set out in Appendix 1, and the additional Condition in relation to landscaping and biodiversity as advised in the Officer update and any Condition amendments as considered necessary by the Head of Planning Services

52 Land South Of Hollins Lane Newport Road Woodseaves Market Drayton (15/01108/MAW)

The Principal Planning Officer introduced the application for the installation of an 800kW agricultural Anaerobic Digester (AD) Plant and associated infrastructure. He confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

During the ensuing discussions, concern was expressed at how the Plant would be connected to the National Grid. In response the Agent for the applicant explained that this would be progressed if planning permission were granted and would come forward as a separate application.

Having considered the submitted plans members of the Committee considered that the proposed development was situated in an ideal location and unanimously expressed their support for the officer's recommendation.

RESOLVED:

That planning permission be **granted** in accordance with the Officer's recommendation and subject to the conditions set out in Appendix 1.

53 Land Off A49 Hadnall Shropshire (14/03995/OUT)

The Principal Planning Officer introduced the outline application (access for approval) for a residential development of up to forty dwellings, the provision of public open space, car park and restoration of moated site (amended description).

Councillor George Dickinson on behalf of Hadnall Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Stuart Thomas, agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate, members of the Committee considered that the proposed development was deliverable, located within a sustainable settlement and would benefit the local community.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the officer's recommendation.

RESOLVED:

That planning permission be **granted** in accordance with the Officer's recommendation, subject to;

- The conditions set out in Appendix 1;
- A S106 agreement to secure the relevant affordable housing contribution at the time of the reserved matters application; and
- The restoration and future maintenance of the moated site.

54 Land North of Norton Farm, Main Road, Norton in Hales, Shrewsbury (14/00260/FUL)

The Principal Planning Officer introduced the application for the erection of 14 detached dwellings. The Principal Planning Officer read an email from a member of Norton in Hales Parish Council that had been received just before the start of the meeting, expressing the Parish Council's support for the application.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor John Cadwallader, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item.

Having considered the submitted plans and listened to the comments made by all of the speakers, the Committee unanimously expressed their support for the Officer's recommendation.

RESOLVED:

That planning permission be **granted** in accordance with the Officer's recommendation, subject to a S106 legal agreement and the conditions set out in Appendix 1.

55 Storage Land And Premises (former Dairy), Mile Bank Road, Whitchurch, Shropshire (13/03481/OUT)

In accordance with his declaration made at minute number 50, Councillor Gerald Dakin left the room during consideration of this item

The Principal Planning Officer introduced the outline application (all matters reserved) for residential development; vehicular access and estate roads; diversion of Public Right of Way; associated highway and landscape works.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Peggy Mullock as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During their statement, the following points were raised:

- Local residents were supportive of housing development on the site; and
- The proposed development was an excellent use of derelict industrial land.

Having considered the submitted plans and listened to the comments made by all of the speakers, the Committee unanimously expressed their support for the proposals.

RESOLVED:

That planning permission be **granted** in accordance with the Officer's recommendation, subject to a S106 legal agreement and the conditions set out in Appendix 1.

56 Mill House, Stanton Upon Hine Heath (SC/00228/15)

The County Arboriculturalist introduced the application to confirm the provisional Tree Protection Order relating to Mill House, Stanton Upon Hine Heath TPO 2015. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Mike Cauchi, land owner spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Fiona Pryce, a local resident spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate, members of the Committee acknowledged the concerns of the land owner, the residents of nearby River Cottage and the Parish Council, however it was felt by some members that the Copper Beech tree enhanced the setting of the village and should be preserved. Having considered the background papers the submitted plans and listened to the comments made by all of the speakers the majority of members expressed their support for the officer's recommendation.

RESOLVED:

That the Shropshire Council Tree Preservation Order 2015 Reference SC/00228/15 (Mill House, Stanton Upon Hine Heath) be **confirmed** in accordance with the Officer's recommendation.

57 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the northern area be noted.

58 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 29th September 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date
 North Planning Committee
 29th September 2015

Item
5
 Public

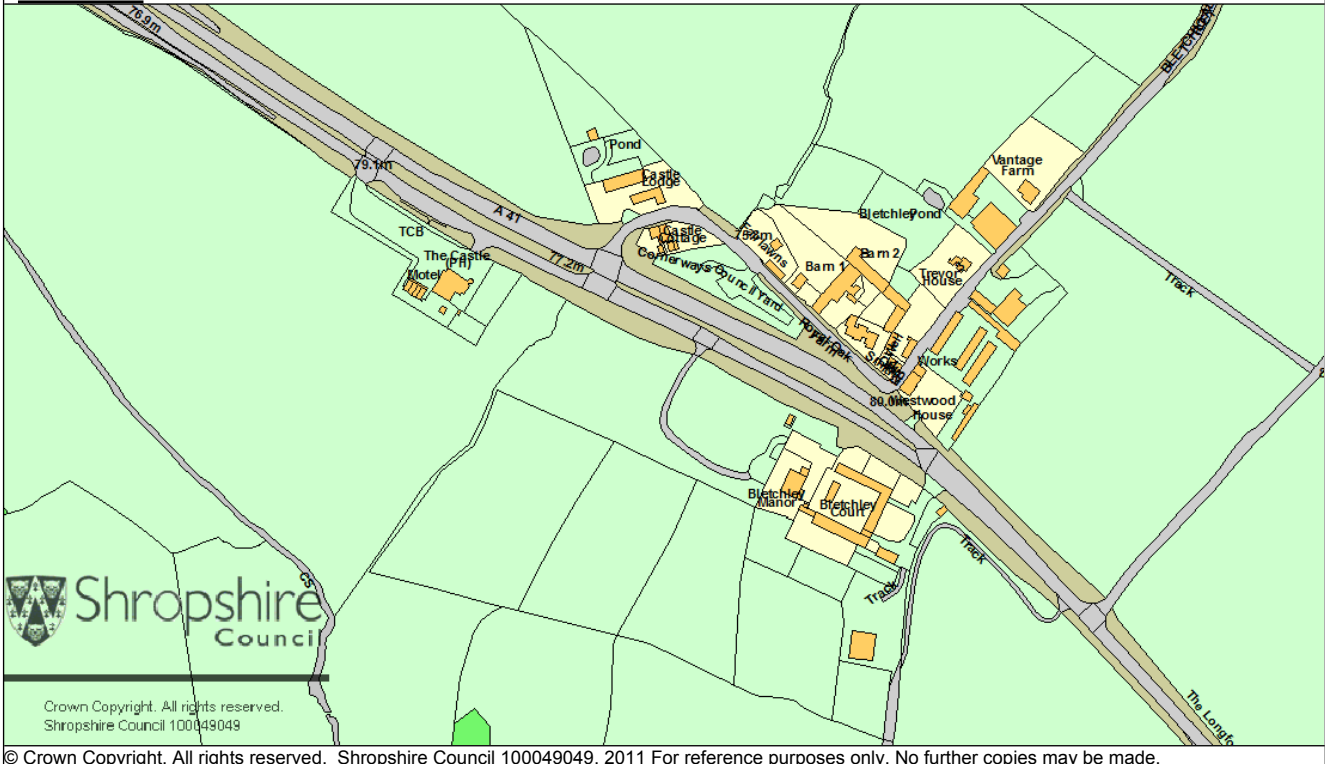
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 15/02089/FUL	Parish:	Moreton Say
Proposal: Erection of one dwelling with detached garage and vehicular access		
Site Address: Land South Of Bletchley Court Bletchley Market Drayton Shropshire		
Applicant: Mr Dermot Costelloe		
Case Officer: Richard Denison	email: planningdmne@shropshire.gov.uk	

Grid Ref: 362240 - 333434



Recommendation:- Refuse Permission subject to the reasons set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of a large detached open market dwelling following demolition of an existing agricultural building on land to the south of Bletchley Court. The proposed dwelling will provide an open porch, a large open plan entrance kitchen and dining room, living room, cloak room/w.c., snug room, office, utility and additional w.c. on ground floor and four double bedrooms (two with en-suite bathrooms), family bathroom and study at first floor. The application also includes the provision of a double garage with a third bay to provide an enclosed store. An external staircase will be provided to a first floor room within the roof void.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site consists of a modern agricultural farm building located 55 metres south of Bletchley Court close to the main A41. Bletchley settlement consists of a number of residential properties (including two listed buildings), The Castle Public House, a farm enterprise and a business premises (Powa Pak Cleaners who are a conservation and restoration specialists). The settlement has a close connection with Moreton Say settlement which has a primary school, village hall and church.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have submitted a view contrary to officers based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions. The Principal Planning Officers in consultation with the committee chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Highways Development Control** - The Highway Authority raises no objection to the granting of consent subject to the following condition: The access driveway, parking and turning areas shall be satisfactorily completed and laid out in accordance with the location site plan drawing no.PL-001B prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose. Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.
- 4.1.2 **Shropshire Council, Housing Enabling Officer** - As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

The current affordable housing contribution rate for this area is 15% and as such a proposal for 1 new open market dwelling would be liable to make a contribution equivalent to 1 x 0.15 of a whole affordable unit (1 x 15%). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing provision elsewhere in the area.

As part of the application process the applicant should be requested to complete and submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed.

- 4.1.3 **Shropshire Council, Flood & Water Management Team** - The following drainage details, plan and calculations could be conditioned if planning permission is recommended for approval:

The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. This is to ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding

If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway. This is to ensure that no surface water runoff from the new access runs onto the highway.

As part of the SuDS, the applicant should consider employing measures such as the provision of water butts, rainwater harvesting system, permeable surfacing on any new access, driveway, parking area/ paved area, attenuation, greywater recycling system and green roofs. This is to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

- 4.1.4 **Shropshire Council, Historic Environment Team (Conservation)** - In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable: CS5 Countryside and Green Belt, CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, National Planning Policy Framework (NPPF) published March 2012 and Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

It is considered that the proposed dwelling does not comply with the requirements of para 55 of the NPPF and therefore should not be supported under this policy. Although there is an agricultural building on the site at present is not considered that to replace it with a dwelling and garage would be an enhancement within the wider setting of the listed farm complex adjacent and therefore would be harmful development within the setting which does not comply with paras 131, 134 and 137 of the NPPF. No consideration has been given to the setting of the heritage assets as required under para 128 of the NPPF. If the applicant wishes to pursue the application then this information will be required and should follow the Historic England Guidance - Historic Environment Good Practice Advice in Planning Note 3. Application is not supported for the reasons noted above and that it does not have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses under the above Act.

Morton Say Parish Council - The settlement of Bletchley is identified in the SAMDev as a community cluster with Longford, Longslow & Moreton Say. Policy S11.2(x) covers the settlement strategy for this area, establishing a guideline of 20 dwellings up to 2026 stating that:

“This will be delivered through infilling, group of houses and conversions on suitable sites within the development boundary of the village of Moreton Say, together with limited infilling, conversion and small groups of houses which may be acceptable on suitable sites within the villages of Bletchley, Longford & Longslow”.

There are no proposed changes to this policy in the current Schedule of Main Modifications. Therefore we would consider that significant weight can be attached to this policy in decision making.

The proposed dwelling would be adjacent to Bletchley Court on the site/footprint of an agricultural barn, which would be demolished in order to make way for the new build. The dwelling would be of sufficient distance to have no impact on the residential amenity of neighbours. The plans are of an appropriate design to be in keeping with existing buildings. The settlement of Bletchley, for the purposes of SAMDev, does not have a specified development boundary and policy allows for consideration of the application. The property would have direct access onto the A41, using a shared access point with Bletchley Court. No Highways concerns have been raised.

Councillors noted that during the Vantage Farm appeal, the planning inspector noted that in reference to Bletchley Court's proximity to Bletchley Manor *“These buildings have been treated by the Council as being part of the listed building at Bletchley Manor and listed buildings consent was granted for their conversion to residential use. However, the building’s are not mentioned in the list description and the Appellant disputes whether they have listed building status.....The information before me is insufficient to demonstrate that Bletchley Court should be considered as part of the listed building”.* This decision would apply to other buildings in the same area. The application complies with core strategy strategic objectives 1, 3, 4, 5, 10 and 11. It further complies with core strategies CS4 & CS6.

The Parish council members raised no objections to the plans and therefore agreed

to support the application.

4.2 Public Comments

4.2.1 Four letters of objection have been received raising the following concerns:-

- Access unsuitable for additional traffic.
- Impact on Bletchley Manor a grade II listed building.
- No heritage statement submitted in accordance with policy.
- Development will not enhance Bletchley Court.

5.0 THE MAIN ISSUES

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Drainage
- Affordable Housing
- Community Infrastructure Levy

6.0 OFFICER APPRAISAL

6.1 Policy & Principle of Development

6.1.1 The proposed site is located on a parcel of agricultural land consisting of a portal framed agricultural building adjoining Bletchley Court. Bletchley has been put forward to be part of a Community Cluster with Longford, Longslow and Morton Say within the emerging 'Site Allocations and Management of Development' Plan (SAMDev). This cluster proposes limited future housing growth of approximately 20 dwellings over the period to 2026 and will be delivered through infilling, groups of houses and conversion on suitable sites. The proposed development is not a conversion or a small group of houses and is not considered as an infill plot as countryside is located to the east, south and west with only the rear garden of Bletchley Court along the northern boundary of the site. The development will extend the residential built form of the settlement and would not accord with the aspiration of the Community Cluster.

Dev

6.1.2 In planning policy terms the site is currently classified as 'Countryside' under policy CS5 of the Shropshire Core Strategy and therefore open market residential development of the site would be contrary to current adopted and emerging policy. Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

- *The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

6.1.3 The emerging 'Site Allocations and Management of Development' Plan (SAMDev) has been submitted to the Planning Inspector for consideration following a Public Enquiry in December 2014 and the Inspector has issued the Schedule of Main Modifications to the Plan which has undergone a six week consultation period. Paragraph 216 of the NPPF indicates that the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, and that where no parts of the plan have been modified by the Inspector then they are considered 'sound' in principle and significant weight can be given.

6.1.4 For those policies that are subject to main modifications, including Development Management policies such as MD3, it continues to be considered that some limited weight can be given as at present. Officers consider that the proposed site does not fall within the main residential built up area of Bletchley settlement and would not fall within the Community Cluster. Bletchley has not been subject to any modification and therefore significant weight can be given to the SAMDev Plan in this respect. The proposed agricultural land measuring in the region of 35 metres wide by approximately 55 metres long with residential development along the northern boundary with Bletchley Court. The site would extend the settlement into open countryside and would result in large residential projection outside of the main built up residential part of the village and would result in the permanent loss of countryside. The proposed site is not located within the designated settlement envelope and is clearly considered to encroach into the open countryside.

6.1.5 Paragraph 14 of the NPPF states that:

'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the]Framework taken as a whole; or*
- *Specific policies in [the] Framework indicate development should be restricted.'*

With regards to housing development paragraph 49 of the NPPF states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development'.

and that

‘Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’

- 6.1.6 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are modifications proposed to MD3 which have not been finally resolved
- 6.1.7 In this period prior to adoption sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.8 It is officers’ opinion that the site is outside the settlement of Bletchley within the adopted North Shropshire Local Plan and emerging SAMDev Plan and would not be supported for development. However, adopted local plan policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’ and to give significant weight to the Community Cluster of Bletchley within the emerging SAMDev.
- 6.1.9 The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.
- 6.2 Assessment of Sustainability**
- 6.2.1 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. Policy

CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.2.2 It has been considered that the Community Cluster of Bletchley, Longford, Longslow and Morton Say would be sustainable. Bletchley is a small settlement with 20 dwellings and includes the Castle Inn (bar, bed & breakfast and restaurant). Although Bletchley settlement has limited facilities it has a close connection with Moreton Say which is 650 metres away as the crow flies and has a primary school, village hall, church and recreational facilities (bowls green and tennis court). Bletchley settlement is located adjoining the main A41 and is only 1.8km from Ternhill which has a number of local services including a local convenience store and 2.8km from the edge of Market Drayton. It is therefore considered that Bletchley is a settlement situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities.

6.2.3 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- *An economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *A social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *An environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

Economic Consideration

6.2.2 The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development supporting builders and building suppliers. The provision of an additional house will also support local businesses as future occupiers are likely to access and use local services and facilities helping them to remain viable. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable for a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

Social Considerations

- 6.2.3 The proposal will provide a single dwelling which will help meet the housing shortage in Shropshire. In addition to boosting the supply of open market housing the proposal will provide affordable housing on site at the prevailing rate at the time of the reserved matters application. The current rate of 15% which would provide a financial contribution to affordable housing in the local area. Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. It is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement.

Environmental Considerations

- 6.2.4 The site currently consists of a portal framed building with a lower concrete wall with vertical timber cladding above with a sheeting roof. The land surrounding the building is a mixture of grazing grass with some external storage with residential barn conversions directly adjoining the north boundary and Bletchley Manor (a grade II listed building) to the north west just over 50 metres away. Having regard to the proposed size of the site and open nature which is clearly outside of the built form of the residential development of Bletchley it is considered that the loss of this piece of land is significant and the proposal would result in an adverse environmental impact on the open countryside. The site is clearly outside of the envelope of Bletchley and does not represent a natural infill plot.
- 6.2.5 The balance of material consideration remains one of boosting housing supply in locations that are considered to be sustainable even if they fall outside of the defined boundaries of the settlement within existing saved and adopted development plan policies. However, the proposed site and permanent loss is considered to have a detrimental impact on the countryside and would not meet the environmental test of the sustainable objective that is set out in the National Planning Policy Framework. Accordingly, it is considered that the principle of a residential development in this location is not acceptable.

6.2 Design, Scale and Character

- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.2.2 The main two storey part of the dwelling measures 15.4 metres wide by 8 metres

deep with an eaves height of 5 metres and ridge height of 8.6 metres. The dwelling has a traditional form with single storey front, rear and side sections and will be constructed from brick with ground to eaves horizontal wood cladding on the front, rear and side sections and a slate roof. The timber cladding is to suggest infill where an original opening may have existed and has been designed to take into consideration of the adjoining barns. Brick headers and footers are proposed with an external chimney stack. The dwelling will be positioned on the footprint of the existing agricultural building which is 356.5sqm. The agent has indicated that the proposed dwelling will be located on a brown field site, It is noted the use of the land is for agricultural use and is not redundant commercial land.

6.2.3 The proposed site is situated adjacent to Bletchley Manor a grade II listed farm house built in the mid-C17 with later C19 alterations and additions. The Parish Council have indicated that Bletchley Court which is a range of traditional residential conversions were not considered listed when the Vantage Farm appeal was considered on the opposite side of the road for six poultry units. However, the inspectors decision notice indicated that the *“The buildings at Bletchley Court are described by the Council's heritage witness as good examples of the multi-functional buildings typical of northern Shropshire model farms, and the Appellant's heritage consultant acknowledged that they are of local historical importance. Accordingly, I have considered Bletchley Court as a non-designated heritage asset. The buildings were erected by the Corser family and date from the mid-nineteenth century. (para 35, page 10)”*. The proposed development will be positioned adjacent to a listed building and non-designated heritage assets and has the potential to affect the setting of these heritage assets. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.4 Although there is an agricultural building on site it is not considered that to replace it with a dwelling and garage would be an enhancement within the wider setting of the site adjoining the listed farm complex. No assessment of the context and significance of the settlement and the important Heritage Assets contained within was submitted with the application. This information should form the basis of any application in such a sensitive location and is required under the requirements of the NPPF (paragraphs 131-137), to ensure that any development on this site does not have a harmful impact on the setting of the Heritage Assets.

6.2.5 No consideration has been given to the setting of the heritage assets as required under paragraph 128 of the National Planning Policy Framework. It is considered that the application is inappropriate in layout, scale and design within the context of the settlement of Bletchley and the wider setting of Grade II Bletchley Manor and adjacent Heritage Assets and is therefore not in accordance with Local and National Policies or the terms of Section 66 of the Planning (Listed building and Conversion Areas) Act 1990 and as a consequence any public benefit that may be considered is unlikely to outweigh the harm caused by the proposed development.

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. The proposed front elevation of the dwelling will be positioned a minimum of 54.6 metres away from the south elevation of Bletchley Court, whilst the side elevation of the garage will be positioned a minimum of 42.3 metres away. Having regard to the distance the proposed dwelling and garage will not result in any overlooking or loss of privacy, cause an overbearing impact or result in loss of light. The proposed use of the garden and access driveway will not result in any excessive noise or disturbance which would be detrimental to the amenity of the adjoining residential properties.

6.4 Highways

- 6.4.1 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.
- 6.4.2 Comments have been received from local residents raising concerns that the existing access is unsuitable for additional vehicles. The proposed development will involve a new access driveway which will link into the existing private access driveway serving the residential conversions in Bletchley Court. This access then connects onto the main A41 at the start of the dual carriageway and provides clear visibility across a wide grass verge. The Highways Team have raised no objection to the increase in traffic or access onto the main A41. The proposed development will only provide a single family dwelling which would not generate significant movements. Officers consider that the existing private driveway can accommodate the increase without raising any highway safety issues or cause any impact or disturbance on neighbouring properties.

6.5 Impact on Trees

- 6.5.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. The site has a number of trees located along the western boundary of the site, together with two trees along the eastern boundary. The proposed dwelling will be positioned on the footprint of the existing agricultural building and would therefore not be affecting any potential root structure or canopy of the adjacent trees. The property has predominantly north and south facing windows which will not be affected by the trees. The proposed garage will be positioned between the existing trees adjacent to this boundary and there is sufficient distance away to prevent any damage of impact on their loss. The proposed development will retain the existing boundary trees and further native boundary treatment can be provided to further enhance this site.

6.9 **Drainage**

6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. The application indicates that foul drainage will be dealt with via a package treatment plant and no objection has been raised by the Drainage Engineer subject to the design being in accordance with Building Regulations. The application indicates that surface water will be disposed of via soakaways and the Drainage Engineer has indicated that percolation test and soakaways should be designed in accordance with BRE Digest 365. The proposed driveway will be constructed with a permeable finish to allow surface water to percolate through and prevent surface water flooding. No concerns have been raised regarding the suitability of the local ground conditions and therefore it is recommended that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.

6.11 **Affordable Housing**

6.11.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index. The existing target rate is 15% which equates to a financial contribution of £13,500. The provision of the contribution would form part of a Section 106 legal agreement.

6.11.2 Officers acknowledge the November 2014 Ministerial statement and national Planning Practice Guidance (PPG) advising against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of recent appeal cases, although the Council contended that those decisions did not set a binding precedent since the evidence underpinning its Core Strategy Policy CS11 had not been considered in full as part of the appeal process. In any event the Government has subsequently withdrawn the relevant PPG following a successful High Court challenge (as of the 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD.

6.11.3 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

6.12 **Community Infrastructure Levy**

6.12.1 Policy CS9 'Infrastructure Contributions' of the Shropshire Core Strategy indicates that development that provides additional dwellings or residential extensions over 100

square metres should help deliver more sustainable communities by making contributions to the local infrastructure. The arrangements for the use of the levy funds are detailed in the Local Development Frame Implementation Plan. The levy rates are set out in the CIL Charing Schedule and in this particular case will relate to £80 per square metre of new residential development. The levy charge would become active when the development commenced if planning permission were to be granted and 15% would be required 60 days after commencement of the development and the remaining 85% 270 days later.

7.0 CONCLUSION

7.1 The proposed site is located in open countryside and is outside of the settlement of Bletchley as indicated in the North Shropshire Local Plan and the emerging SAMDev Plan. The proposed loss of this land would extend the settlement of Bletchley into countryside which would be permanently lost. The proposed development would have a detrimental impact on the environment of the settlement and would not represent sustainable development within the context of the National Planning Policy Framework.

7.2 The proposed development would be inappropriate in layout, scale and design within the context of the settlement of Bletchley and the setting of the Grade II Bletchley Manor and adjacent Heritage Assets Bletchley Court and is therefore contrary to Policy CS6 and CS17 of the Shropshire Core Strategy, paragraphs 131 to 137 of the National Planning Policy Framework and Section 66 of the Planning (Listed building and Conversion Areas) Act 1990 and as a consequence any public benefit that may be considered is unlikely to outweigh the harm caused by the proposed development.

7.3 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187. The Council being of the opinion that the detrimental impacts associated with the proposed development outweigh any public benefits in relationship to the proposal.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or

perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework:

6 : Delivering a Wide Choice of High Quality Homes

7 : Requiring Good Design

8 : Promoting Healthy Communities

10 : Meeting the Challenge of Climate Change, Flooding and Coastal Change

11 : Conserving and Enhancing the Natural Environment

12 : Conserving and Enhancing the Historic Environment

Shropshire Council Core Strategy (February 2011):

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

10.2 Relevant Planning History

There is no relevant planning history.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 15/02089/FUL

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr Paul Wynn

Appendices - Appendix 1

APPENDIX 1

Reasons for Refusal:

1. Development of this site as proposed is considered contrary to both the saved policies of the North Shropshire Local Plan policy H6 and the adopted Shropshire Core strategy policies CS4, CS5, CS6 and CS17 and the emerging SAMDev proposals as the proposal is for an open market dwelling on a site that is situated in countryside. The proposal does not fall within any of the exceptions or any of the special circumstances set out within both local and national policy. There would be no significant benefits of allowing this proposal that would outweigh the conflict with policies within the adopted local plan and the emerging SAMDev with regards to housing land supply.
2. The proposed development would be inappropriate in layout, scale and design within the context of the settlement of Bletchley and the setting of the Grade II Bletchley Manor and adjacent Heritage Assets Bletchley Court and is therefore contrary to Policy CS6 and CS17 of the Shropshire Core Strategy, paragraphs 131 to 137 of the National Planning Policy Framework and Section 66 of the Planning (Listed building and Conversion Areas) Act 1990.



Committee and Date
 North Planning Committee
 29th September 2015

Item
6
 Public

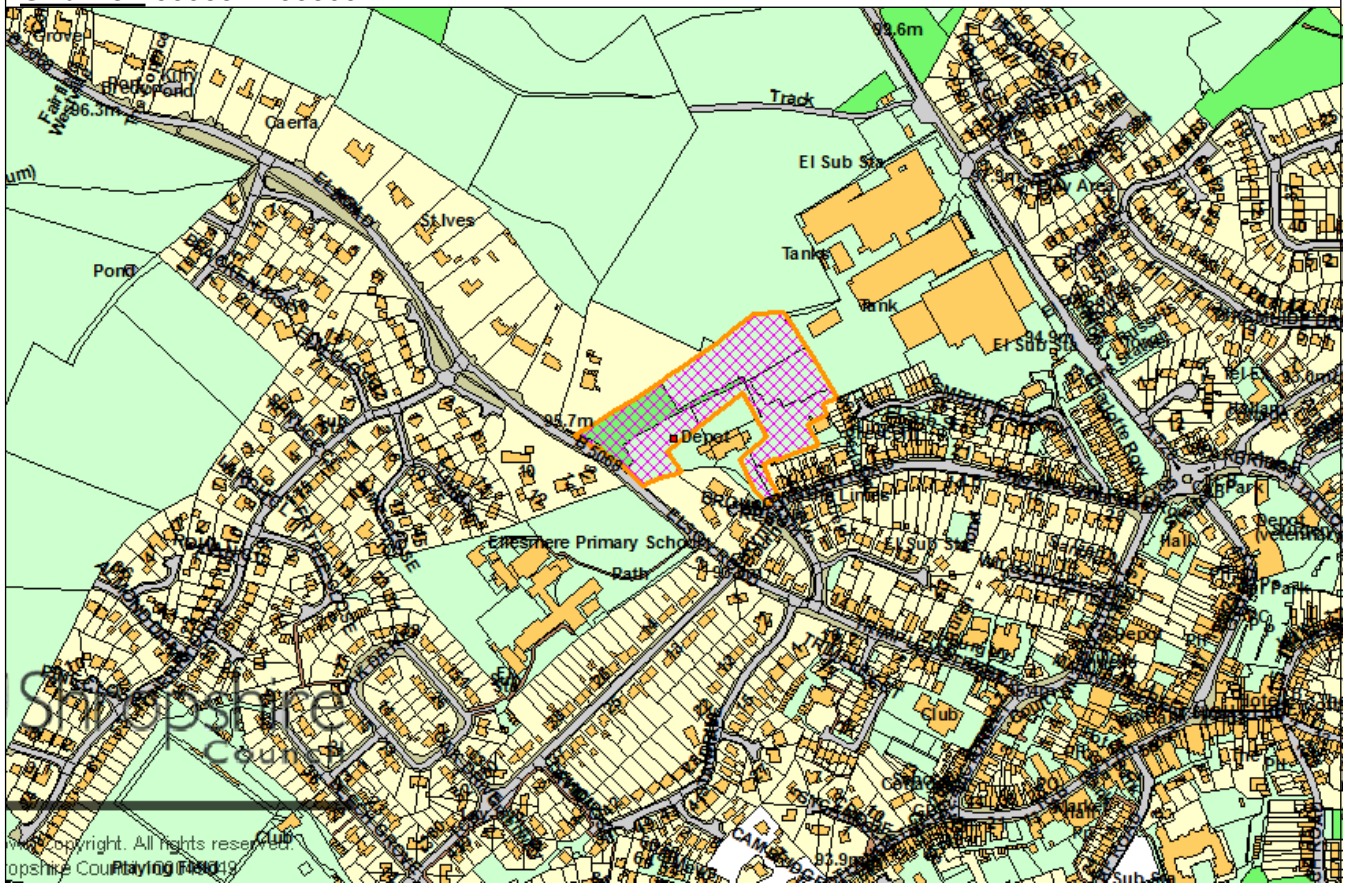
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 14/01744/OUT	<u>Parish:</u>	Ellesmere Urban
<u>Proposal:</u> Outline application (all matters reserved) for mixed residential development; formation of estate roads		
<u>Site Address:</u> Old Station Yard Brownlow Road Ellesmere Shropshire		
<u>Applicant:</u> Wychbury Properties (Ellesmere) Ltd		
<u>Case Officer:</u> Mark Perry	<u>email:</u> planningdmnw@shropshire.gov.uk	

Grid Ref: 339554 - 335032



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and the applicant entering into a S106 to secure an affordable housing contribution.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks outline permission for a residential development with all matters reserved for subsequent approval. The applicant has provided an indicative layout which shows 57 dwellings with access being provided off Brownlow Road.
- 1.2 Planning Permission was sought in 2006 for redevelopment of this site for a residential development (NS/06/02024/OUT). The site area was similar but not identical to the site proposed here where 52 dwellings were then proposed. At that time there was a resolution by the North Shropshire District Council to grant planning permission subject to a S106 legal agreement. The applicant failed to progress the S106 and the application was subsequently withdrawn.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises approximately 1.35 ha of disused industrial land which formally formed part of the Fullwoods site who manufactures dairy equipment. The site has not been used for industrial use for a number of years and has remained vacant since its use for open storage with the former railway station providing office accommodation ceased. The land to the west is still an area of operational industrial buildings. The main access to the continuing industrial use is from Grange Road although the existing access to the site (off Brownlow Road/Brownlow Crescent) is still in active use providing access to the employees parking area and access for HGV's.
- 2.2 Situated to the north of the access is the former Railway Station, a Grade II Listed Building, built in brick and stone under a slate roof, with its platform and canopy still intact. The building itself and a sizeable area in front of its main elevation do not form part of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 It was originally agreed in October 2014 that the application be determined under delegated powers. Upon receipt of further comments from the Town Council and the passage of time it was considered by the Chair and Vice Chair that the application should be considered by the planning committee.

4.0 Community Representations

- Consultee Comments

4.1 Town Council-

Ellesmere Town Council would like to object to this application and have made the

following comments:

1) The access to the proposed development is via Brownlow Road which already has existing traffic problems that both residents and the Town Council have expressed concerns about previously. A large amount of heavy HGV vehicles access the Fullwoods site from the proposed entrance of this development which is already extremely dangerous for pedestrians and members feel that an increase in traffic to this area would increase the dangers posed particularly as this is one of main roads used for children and parents walking to and from both schools.

2) The bottleneck at the top of Trimpley Street already has to cope with an enormous volume of traffic and this development will increase that level of traffic.

3) From looking at the indicative plan members commented that it shows insignificant turning circles for vehicles on the development, which will result in them having to drive onto driveways and reverse onto the newly built busy roads to exit their plots, which they considered a danger to other motorists and pedestrians. This application would be outside the development boundary already agreed in the SAMDev which is about to go to cabinet.

4) Members have concerns that with the SAMDev already including site ELL003 which had full Town Council support in providing 250 dwellings in on area as opposed to having housing in three separate locations. Member have concerns that any additional developments would over development the town and would be beyond the capabilities of the current infrastructure.

5) Although this application does not include the Grade 2 listed Station building, there is mention of it in the design and access statement Members would like to make sure that if any development should be proposed to this in the future that there is a significant area of land left surrounding the protected building.

Further to the receipt of these comments the Town Council has written further to express its concern about the decision being delegated to officers for consideration rather than being considered by planning committee with the primary concern being the loss of local employment land and potential job opportunities.

- 4.2 **Public Protection-** no objection subject to a condition requiring a site investigation report to assess the extent of any contamination and provide remediation where necessary.
- 4.3 **Highways-** No objection acknowledging that all matters, including access and density are to be dealt with as part of a reserved matters application.
- 4.4 **Affordable Housing-** The scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.
- 4.5 **Conservation-** Very little detail, due to the outline nature of the application, has been submitted with this application, other than an indicative layout. As this will not

be conditioned as accepted as part of the outline the comment made will be in brief, as follows:

- Parking of vehicles in front of the listed building is not encouraged (albeit for use by the possible occupants of the station building) as this can detract from the character and significance of the listed building. An alternative should be sought.
- Boundary treatments and road layout will be very important as this too can have a detrimental impact on the setting of the listed building (around the proposed development site with the boundary of the listed building).
- Should permission be granted, the design and use of materials of any proposed dwellings should be of the highest quality to ensure that the setting and character of the listed building is not reduced. If this cannot be achieved then permission should not be granted. To this end no philosophy or design rational forms part of the Design and Access Statement, therefore no comfort regarding the standard of development can be gained.
- The requirements of the NPPF do require that, with regard to the Historic Environment, sufficient information should be submitted with the application to be able to properly assess the impact on the proposed development. Also, that the significance of the heritage asset is assessed to ensure that it is fully understood, so that this can inform the way in which the proposal is designed, use of materials and siting of buildings in the setting of the listed building etc., that is if the proposal is found to be acceptable in principle. There is setting guidance produced by English Heritage <http://www.english-heritage.org.uk/publications/setting-heritage-assets/> which should be followed when producing this information.

Further information should be requested. This information should ensure that full account of the setting of the listed building is considered prior to any decision being considered.

- Public Comments

No representations received

5.0 THE MAIN ISSUES

Principle of development
 Siting, scale and design of structure
 Visual impact and landscaping
 Impact upon the setting of the Listed Building
 Highway Safety
 Loss of Employment Land

6.0 OFFICER APPRAISAL

6.1 Principle of development

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

approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. For decision taking the paragraph 14 advises that schemes that accord with a development plan should be approved without delay.
- 6.1.3 A number of the North Shropshire Local Plan policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. The application site is shown as been within the development boundary of both adopted and emerging planning proposals maps. The comments made by the Town Council in point 3) are therefore incorrect; although it is acknowledged that the site is not one of the allocated housing sites included within the SAMDev submission. The site would however be classed as being an infill development, within the development boundary as supported by policy H5 of the Local Plan and now SAMDev the plan is at an advanced stage of preparation, following the completion of the consultation on the main modifications, significant weight can also be awarded to para 5.83 of SAMDev where it states in relation to policy S8, “In addition to the site allocation for 250 homes identified in Schedule S8.1a, there are significant opportunities for development of windfall sites on brownfield land within the established Development Boundary”.
- 6.1.4 As such the principle of development is acceptable as it is in accordance with saved policy H5 of the Local Plan subject to the normal development management considerations. Policy CS3 of the Core Strategy also intends to make the County’s Market Towns a foci for economic and regeneration by providing balanced housing and employment development.
- 6.1.5 Despite there being a previous resolution to grant planning permission for housing on the site the existing authorised use has remained as one of employment purposes. The site can be classed as brownfield land and therefore should be a priority for re-use and development as set out in policy CS10 of the Core Strategy.
- 6.1.6 Accordingly it is considered that the site is in a sustainable market town location where there is good access to shops, services and facilities which would reduce the reliance in the use of the car.
- 6.1.7 The existing authorised use of the open land is for commercial uses, although outside of this application site the former station building also has a permitted use for offices. The Town Council have commented on the loss of industrial land, this loss must be balanced against the benefit of providing additional housing in a sustainable market town location. There is already a commitment to provide additional employment land in two separate parts of the town as detailed in SAMDev. It is therefore considered that the loss of this parcel of existing commercial land has a neutral impact in the overall planning balancing exercise.

6.2 **Siting, scale and design of structure**

- 6.2.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. The indicative layout shows how the site could be developed but the layout details are not being considered as part of this application. Neither are the number of dwellings on this site being considered at this time. The detail of the scheme would be fully considered at the time of the reserved matters application. It is considered that the size of the site is capable of accommodating a significant number of dwellings. The precise number would only be known when the reserved matters application is submitted. Unlike the previous application this current application has excluded a large area to the front of the former railway station building, this provides greater confidence and certainty that the setting the listed building is being protected without modern housing development encroaching too close.
- 6.2.2 The site does include a change in levels, which will provide both challenges and opportunities in terms of design and layout. Conditions will be required to ensure that cross sections and finished level details are provided to assess the impact on existing and adjacent development
- 6.2.3 The Town Council has commented on the amount of turning space for vehicles within the development. The Town Council's comments are noted and the applicant should have regard to this in the reserved matters submission by ensuring that the scheme is of an appropriate layout and density. However, as advised above the layout of the site is a reserved matter and is not therefore considered as part of this application. If the applicant proceeds to submit a reserved matters application the views of the Town Council, neighbours and other consultees will be sought.
- 6.2.4 The indicative layout that has been submitted with the application shows a high density development with no obvious reference to the layout, character or the site's historic context or that of the wider area. The indicative layout does not appear to be the most appropriate solution although no weight is given to this at the outline stage for the site and the applicant is encouraged to enter into discussions with Officers prior to the submission of the reserved matters application.
- ## 6.3 **Highway Safety**
- 6.3.1 Access to the proposed development is to be from Brownlow Road. This access currently serves the Fullwood Limited operation, and will continue to do so with the proposed estate road continuing to the boundary with the industrial use. Fullwoods does have an access off Grange Road and this is for Office Staff. The shop floor workers and HGV's would continue to access the site via the Brownlow Road entrance.
- 6.3.2 The Council's Highways Officer has considered the comments made by the town Council in respect of the access and has raised no objections in principle to the proposed development and he is satisfied that the existing junctions, in capacity terms, are satisfactory and will be able to accommodate the increase in traffic movements associated with the development proposals. Detailed design drawings will need to be submitted and agreed prior to the commencement of development and can be made a condition of the approval.
- 6.3.3 Ellesmere Town Council has raised the issue of the bottleneck that exists on

Trimpley Street because of the priority flow traffic calming. In this instance the residents of the proposed development have an option to avoid this bottleneck by using Brownlow Road, clearly this will depend upon which direction that highway users are heading. It does however mean that the traffic flows from the development will be dispersed over the highway network rather than all being routed through the bottle-neck. The Town Council have commented that Brownlow Road suffers from traffic problems, no specific details have been provided but it is believed that this relates to HGV's using the residential road to access Fullwoods. This relates to an existing access serving an existing business.

6.3.4 Whilst there would be some increase in traffic movement this combined with movements to and from Fullwoods is unlikely to be to such a level where it impacts upon the free flow of traffic or to such a level where it could be considered as severe. Consideration is also given to the authorised industrial use of the site which has the potential to generate significant vehicle movement, potentially including HGV's on the highway. The highway authority would favour housing as a land development option as it does tend to generate known traffic movements. The site is also within walking and cycling distance of the town centre and therefore can be considered a sustainable location, with the benefit that this may result in a lower car trip generation.

6.4 **Impact on Listed Building**

6.4.1 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Council, where it is considering an application which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.4.2 The application was advertised as affecting the setting of the adjacent former Railway Station building which is a Grade II Listed Building. No detailed drawings have been submitted with this outline application and whilst there is no objection in principle to new residential development adjacent to the Listed Building, the reserved matters application would need to provide a quality and sympathetic form of development which preserves the setting of the adjacent listed building in terms of its form, pattern and detailing. The application site has been drawn in such a manner so that it does not include a large area to the north and west the building. It is considered that this helps to ensure that the principle of protecting the building's setting is achievable. Full consideration of the impact on the development on the listed building can be given at the reserved matters stage.

6.5 **Contamination**

6.5.1 The applicant has submitted a contamination report which identified a number of areas that require further investigation and where appropriate necessary remediation. The contamination is a likely consequence of being part of the railway network or the subsequent industrial uses. Conditions have been suggested by the Council's Public Protection Officer and these are therefore necessary to ensure the potential risk of contamination is managed and appropriate remediation measures provided as required.

6.6 **Impact on Neighbours**

6.6.1 The nearest existing dwellings to the site are those to the south which front onto Brownlow Road. These properties would have their rear gardens abutting the application site. It is considered that the site can be developed whilst maintaining adequate distances of separation to preserve the neighbour's amenity.

6.7 Ecology

6.7.1 The applicant has provided an independent Ecological Assessment with the application. The assessment concludes that the site was mostly hard standing with some small amounts of rough grass. No evidence of any protected species were found within the boundaries of the site. It is therefore considered that the proposed development would not have any detrimental impact upon any protected species that might be found in the area.

6.8 Affordable Housing

6.8.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. The number of dwellings is not yet known as this is an outline planning application. Therefore a S106 will secure either on site and/or financial contributions towards the provision of affordable housing in accordance with the Shropshire Viability Index as set out in the adopted SPD. The applicant has signed the affordable housing pro-forma agreeing to the contribution and to meet the legal cost of preparing the Section 106 agreement.

7.0 CONCLUSION

7.1 The site is on an area of previously developed land located within the Ellesmere development boundary as identified in both the adopted Local Plan and emerging SAMDev document and significant weight must also be awarded to paragraphs 7 and 8 of the NPPF where there is a presumption in favour of sustainable development. As such the site is considered to be located in a sustainable location where everyday services and facilities are located within easy walking distance and there is good access to public transport.

7.2 It is considered that the application site is appropriately located where visually it would have limited visual impact because of the topography of the land and the high levels of existing mature planting. It is considered that a residential use for the site would have less impact on the amenities of neighbouring occupiers and the highway network than its former use for industrial purposes.

7.3 The proposal will be of significant benefit in terms of boosting the local housing supply including the provision of affordable housing in what is a sustainable, brownfield location where there is good access to services in a sizeable market town. Accordingly, it is considered that the proposal complies with policies CS3, CS6, CS11 and CS17 of the Core Strategy and the requirements of the National Planning Policy Framework.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree

with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, 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
Planning Practice Guidance

Core Strategy and Saved Policies:
CS3- Market Towns and Other Key Centres
CS6- Sustainable Design and Development Principles
CS8- Facilities, Services and Infrastructure Provision
CS9- Infrastructure Contributions
CS11- Type and Affordability of Housing
CS17- Environmental Networks

RELEVANT PLANNING HISTORY:

14/01744/OUT Outline application (all matters reserved) for mixed residential development; formation of estate roads PDE
NS/04/00377/OUT Erection of 5 dwelling houses; construction of new estate road; alteration of vehicular and pedestrian access CONAPP 28th May 2004
NS/80/00614/FUL Siting of three coalhoppers and two access loading bays. GRANT 12th August 1980

11. Additional Information

[View details online:](#)

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

Cllr Ann Hartley

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the access, 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 development shall be carried out strictly in accordance with the 1:1250 location plan shown on drawing number 1063:1.

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

5. Details/ site sections of existing and proposed ground levels/ finished floor levels shall be submitted with the first reserved matters application for approval by the local planning authority.

Reason: In the interest of maintaining the amenity value of the area.

6. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

8. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

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

9. No construction work shall take place outside the hours of 0730 to - 1800 Monday to Friday and 0800 to 1300 on a Saturday with no building work taking place on Sunday or Bank Holidays.

Reason: To preserve the amenities of neighbouring occupiers.



Committee and Date
 North Planning Committee
 29th September 2015

Item
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 Public

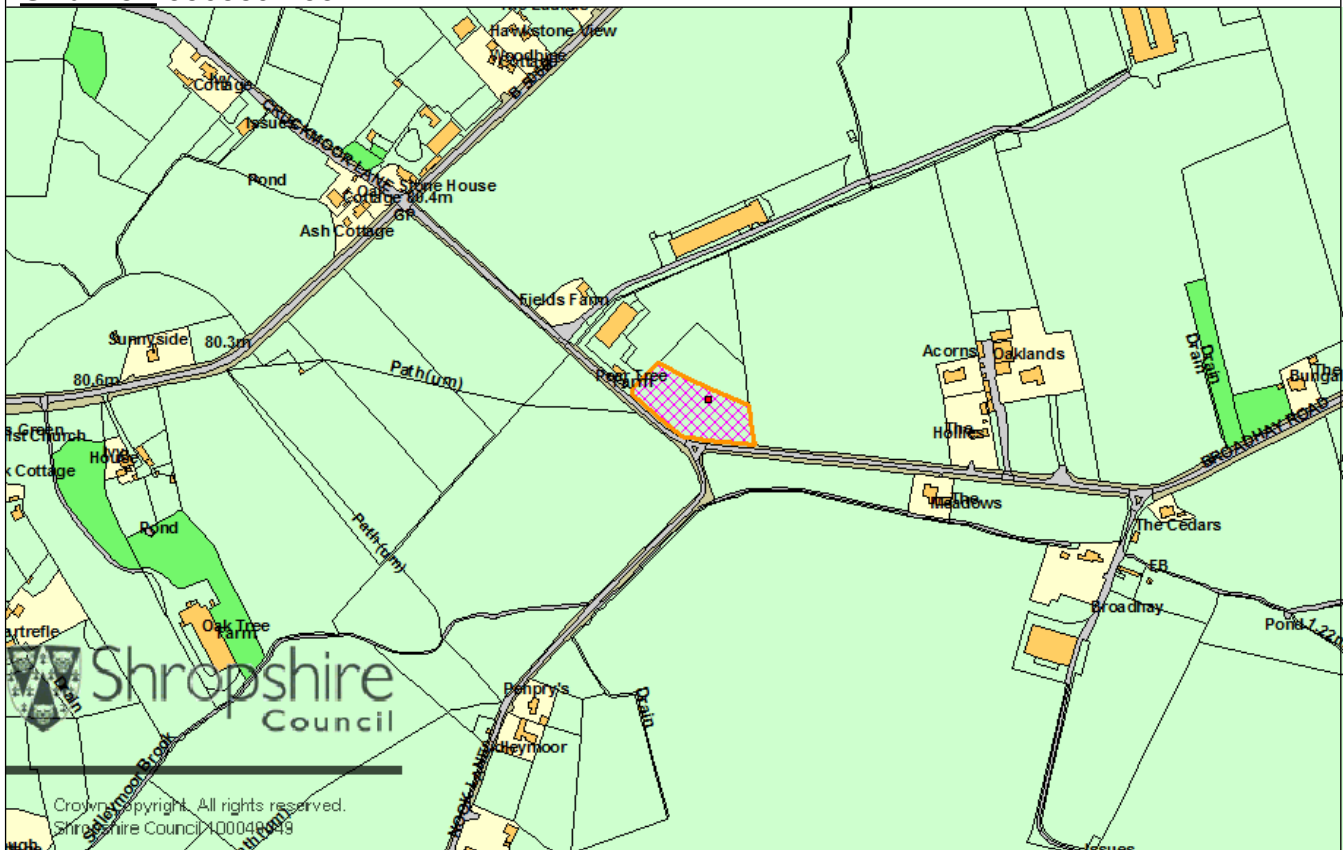
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 15/02817/VAR	Parish:	Prees
Proposal: Variation of condition 5 attached to planning permission reference 15/01907/AMP to allow revised plans and elevations to be submitted		
Site Address: Pear Tree Farm Broadhay Lane Lower Heath Prees Shropshire		
Applicant: Mr S Scarle		
Case Officer: Jane Preece		email: planningdmne@shropshire.gov.uk

Grid Ref: 356889 - 331721



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Recommendation:- Grant the variation of condition, subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning permission to vary condition 5 attached to planning permission reference 15/01907/AMP to allow revised plans and elevations to be submitted.

1.2 Condition 5 reads as follows:

The development shall be carried out strictly in accordance with the approved plans and drawings, listed as follows:

Location plan received 9th August 2006, drawing reference 750.D.02

Site plan received 9th August 2006, drawing reference 750.D.07

Proposed floor plans and elevations received 9th August 2006, drawing reference 750.D.05 A

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

2.0 SITE LOCATION/DESCRIPTION

2.1 Pear Tree Farm lies in the open countryside within the Parish of Prees at Lower Heath. The site accommodates some outbuildings, a static caravan and a dwelling under construction. Whilst the farm is of little acreage (ie 1.7 hectares), historically the site has consent for a agricultural workers dwelling under planning permission ref: N/06/816/PR/1036 (NS/06/01915/FUL), granted 16th November 2006. Work on the development commenced sufficient to implement the permission. However, the dwelling that is currently under construction does not comply with the approved plans.

2.2 The nearest neighbouring dwellings lie over 100 m away to the north west (a mobile home associated with a modern poultry unit, known as Fields Farm), or over well over 200 m away to the east (The Meadows, The Hollies and Acorns).

2.3 The land is bounded by mature trees along the length of the north and eastern field boundaries. A tall hedge runs along the roadside boundary to the south east and south west. The road is known as Broadhay Lane. Access from the site is onto Broadhay Lane.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 The Parish Council object and officers are recommending approval.

4.0 **Community Representations**

4.1 **Consultee Comments**

Prees Parish Council – Object. Prees Parish Council has considered this application and objects to the proposed new plans. The Council has no objection in principle to the applicant applying for a different design and a more eco-friendly dwelling. However this site is in the open countryside and the dwelling is only permitted as an agricultural workers dwelling as an exception to planning legislation in force both now and at the time of the original application.

Current planning guide lines on agricultural dwellings restrict them to an over all floor area of 100 sq meters, unless the applicant can demonstrate a need for additional space due to the needs of the agricultural business. The application was originally decided under regulations in force at the time which had no specific restriction on size. However the house should remain suitable for its original purpose as an essential agricultural workers dwelling and as such the Parish Council do not feel the size and scale of the new design is appropriate.

4.2 **Public Comments**

None received.

5.0 **THE MAIN ISSUES**

- Background
- Design, size and scale

6.0 **OFFICER APPRAISAL**

6.1 **Background**

6.1.1 Temporary planning permission for the erection of four goat rearing pens and a food store was granted at this site in March 2001. Full planning permission to retain the goat pens and food store was granted in June 2004.

6.1.2 A 3 year temporary planning permission for the siting of a mobile home as an essential agricultural workers dwelling (ref. NS/04/00999/FUL) in connection with a goat rearing enterprise was approved in November 2004. Full planning permission for the erection of an essential agricultural workers dwelling to replace the mobile home was then granted in November 2006 (ref. NS/06/01915/FUL).

6.1.3 The goat rearing business ceased to operate sometime before the present owner (and current applicant) bought the site 2008. The applicant then operated a business fabricating timber gates, having relocated from Stoke. Planning permission was refused to conjoin and change the use of the agricultural buildings at the site for the purpose of manufacturing timber gates in May 2010 (09/00656/FUL) and consequently dismissed at Appeal in February 2011. That Appeal also dismissed and upheld an Enforcement Notice relating to (i) the unauthorised development that had already taken place in connection with the change of use of the land to a mixed agricultural and timber manufacturing use and

(ii) the failure to remove the mobile home from the site in compliance with the time limit imposed under condition 1 of NS/04/00999/FUL. In respect of the later the Inspector varied the Enforcement Notice to require the removal of the mobile home with 7 months rather than 30 days of the Notice*. The Inspector also noted that a material start had been made in respect of NS/06/01915/FUL sufficient to secure permission for the permanent dwelling.

* NB: The mobile home still remains on site and therefore remains an enforcement matter.

6.1.4 Notwithstanding the previous refusal and appeal decision, an application seeking retrospective consent for the change of use of the existing former agricultural building into a use for the manufacture of gates and other timber products (including a prototype bee hives) and use for agricultural storage was subsequently submitted and approved in March 2012 (ref. 11/03791/FUL). The application sought to reduce the height and simplify the external appearance of the building to that of a modern agricultural building and also sub-divide the building to provide 431.2 square metres of commercial floor space and 142.8 square metres of agricultural use. The agricultural use included the storage of products in association with the applicant's interest in bees. He wished to operate an apiary business and to keep rare breed sheep and cattle at the site.*

* NB: The applicant maintains his bee breeding business and livestock keeping at the site currently generates an agricultural income in compliance with the agricultural occupancy restriction for the dwelling.

6.1.5 Turning back to the matter of the dwelling, the applicant submitted an application for non material amendment proposing an alternative house design in late 2013 (ref. 13/04733/AMP). However, as the alternative design differed significantly to that originally approved then it could not be accepted as a non material amendment. A new application was therefore invited. Despite this advice the applicant is in the process of constructing a house type that does not accord with the 2006 approved plans – the slab is down and the timber frame is up. In order to regularise the situation and retain the existing 2006 consent the applicant is therefore now seeking to vary the formerly approved plans under this current application. As no condition was originally in place to vary, he first had to seek an amendment to the original 2006 planning permission to add a condition to list the approved plans (ref. 15/01907/AMP).

6.2 **Design, size and scale**

6.2.1 The 2006 approval details a 3 bed detached dwelling of simple design and brick and tile construction. The dwelling is relatively square in footprint, with an attached single storey garage and utility/WC/shower room at ground floor level. The floor area equates to approximately 142 m square.

6.2.2 The alternative house type for which consent is now sought is of timber frame construction with rendered walls under a slate roof. The dwelling is rectangular in shape with a highly glazed, triangulated gable. In terms of accommodation the revised dwelling will provide an open plan kitchen/dining/living area together with

an entrance hall, office, bedroom and bathroom at ground floor level. The first floor will accommodate a further galleried bedroom and a separate bathroom. According to the CIL team the gross floor area amounts to 173 m square. This equates to an increase of 31 m square in floor area when compared with the originally approved dwelling.

6.2.3 Having regard to policies CS5, CS6 and CS17 there is no objection to the alternatively house design. The site lies in a rural area and is surrounded to its boundaries by high hedges and mature trees. There are no vernacular buildings on the site. The dwelling will sit back from the road, is individually designed and, taking into account the context and setting, is of a character and external appearance that is not considered harmful to the visual appearance of the locality.

6.2.3 In terms of size and scale the Parish Council have raised an objection. The Parish Council are concerned that the site is in the open countryside and '*... the dwelling is only permitted as an agricultural workers dwelling as an exception to planning legislation in force both now and at the time of the original application*'. On this basis, the Parish Council do not consider the increase in size and scale to be appropriate for the continued purpose as an essential agricultural workers dwelling, particularly given that no need has been demonstrated for the additional space associated with the needs of the agricultural business.

6.2.4 As stated in para. 6.2.2 above the alternative house design offers approximately 173 square metres of floor area and is 31 square metres larger than the formerly approved plans. Whilst this amount of floor area well exceeds the 100 square metre limit which now forms adopted policy guidance as part of the Type and Affordability of Housing SPD 2012, the approved dwelling already exceeds this limit and pre-dates the SPD requirements. Furthermore, as no condition was imposed on the original 2006 consent withdrawing permitted development rights, then the existing approved dwelling has full permitted development rights to extend. As such, it would be unreasonable for the LPA to now refuse permission for the 31 sq m increase in floor area involved with this alternative house design when, in practice, the 2006 dwelling design could still be erected and the dwelling extended to similarly increase the floor area once the property was occupied.

6.2.5 The applicant is aware that the size of the dwelling is an issue. As the proposed design involves galleries and void areas at first floor level, the applicant has indicated that as part of the variation application he is willing to accept a condition to specifically restrict the installation of any additional flooring at first floor to fill those voids and create additional floor space. Taking into consideration current policy and practice in relation to rural workers dwellings, officers also consider it necessary to impose an additional condition removing permitted development rights so that the dwelling may not be altered and extended to increase the size further in the future without the grant of an additional planning permission.

7.0 **CONCLUSION**

7.1 Officers are satisfied that the alternative house design is of an acceptable size, scale, design and appearance taking into account the local context and setting and the planning history of the site. In this respect, the application is considered to comply with Core Strategy policies CS5, CS6 and CS17. With regard to the

specific policy requirements regarding rural workers dwellings and size restrictions as set out in the adopted Supplementary Planning Document on the Type and Affordability of Housing 2012 then regard has been paid to the extent of the existing 2006 approved plans and lack of any restrictions pertaining to extending that approved dwelling once occupied.

7.2 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 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

Core Strategy and adopted Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

NS/01/00066/FUL Erection of four goat rearing pens and food store CONAPP 7th March 2001

NS/02/01069/FUL Temporary permission for siting of mobile home and installation of treatment plant REFUSE 16th January 2003

NS/04/00573/FUL Retention of 4no. goat rearing sheds and food stores (previously approved under N/01/54/PR/1036) CONAPP 30th June 2004

NS/04/00999/FUL Temporary permission for the siting of a mobile home to be used as an essential agricultural workers dwelling; installation of sewage treatment plant; erection of fencing CONAPP 4th November 2004

NS/06/01915/FUL Erection of essential agricultural workers dwelling. CONAPP 16th November 2006

09/00656/FUL Change of use of existing agricultural buildings to the manufacture of timber gates with erection of a roof to existing covered area and provision of hardstanding and new access REFUSE 19th May 2010

11/03791/FUL Application under Section 73a of the Town and Country Planning Act 1990 for the change of use of existing agricultural buildings to the manufacture of timber products; extension/alteration to roofline to consolidate 4 buildings into one building to include storage unit; formation of parking area (retrospective) GRANT 8th March 2012

13/04733/AMP Non material amendment to planning permission reference NS/06/01915/FUL granted on 16th November 2006 to allow the replacement of approved house design REAMP 2nd December 2013

13/02878/VAR Variation of condition one of planning permission reference 11/03791/FUL for the change of use of agricultural buildings to the manufacture of timber products GRANT 1st October 2013

13/04733/AMP Non material amendment to planning permission reference NS/06/01915/FUL granted on 16th November 2006 to allow the replacement of approved house design REAMP 2nd December 2013

15/01907/AMP Seeking to add a condition to planning permission N/06/816/PR/1036, (NS/06/01915/FUL) that requires the proposed development to be carried out in accordance with the submitted plans and specifications, GRANT 20th May 2015

Appeal

10/01842/ENF Appeal against Unauthorised change of use from agricultural use to workshop use DISMIS 16th February 2011

Appeal

10/01843/COND Appeal against unauthorised mobile home DISMIS 16th February 2011

Appeal

10/01850/REF Change of use of existing agricultural buildings to the manufacture of timber gates with erection of a roof to existing covered area and provision of hardstanding and new access DISMIS 16th February 2011

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)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Paul Wynn
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

2. Prior to first being used on site samples of the types and colours of all external materials, including hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

3. The access, parking and turning area as shown on drawing no. 13/767/02 shall be completed prior to first occupation of the dwelling in accordance with a specification to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety and visual amenity.

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

4. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

Reason: The site is in an area where new dwellings are not normally permitted except where there is an overriding need in the interest of agriculture or forestry.

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

Reason: To maintain the scale, appearance and character of the development and to control the future size of the dwelling having regard exceptional housing policy requirements for agricultural workers dwellings in open countryside locations.

6. The gross internal floor area of the dwelling hereby permitted is restricted to that shown on the approved plans and shall not be increased, including by the installation of any additional flooring at first floor level.

Reason: To enable the Local Planning Authority to control the size of the dwelling having regard exceptional housing policy requirements for agricultural workers dwellings in open countryside locations.



Committee and Date
 North Planning Committee
 29th September 2015

Item
8
 Public

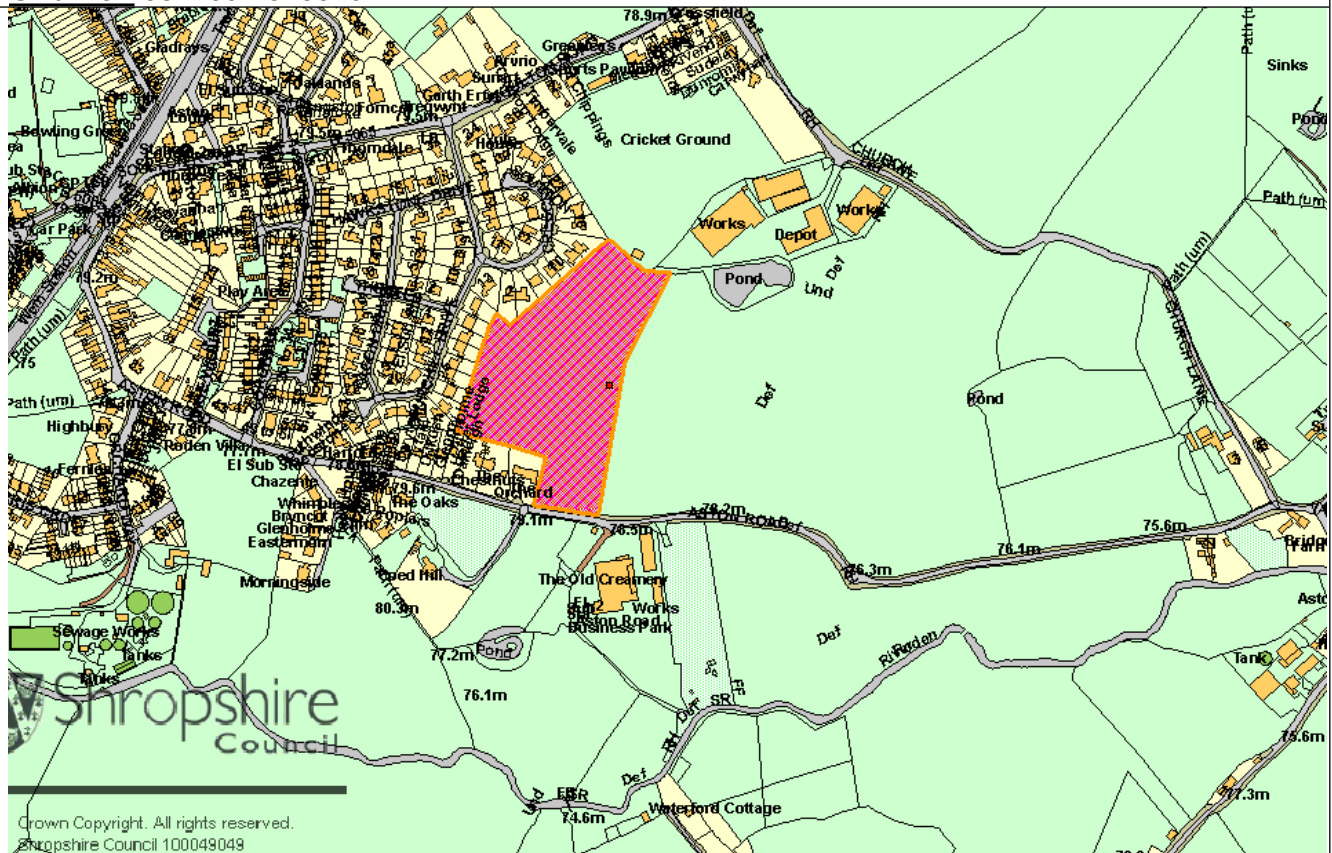
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/03428/OUT	Parish:	Wem Urban
Proposal: Outline application for the erection of 50 No dwellings (to include access)		
Site Address: Proposed Residential Development Land Between Aston Road And Church Lane Wem Shropshire		
Applicant: Mr K,J&P Broomhall & Mrs H Beasley		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 352259 - 328870



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Recommendation:- REFUSE planning permission .

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 17th February 2015 it was resolved by Northern Planning Committee to grant outline planning permission for residential development, with access detailed at this outline stage, on land between Aston Road and Church Lane, Wem, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure affordable housing in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing' and to secure a financial contribution towards investigating and implementation of changes to the traffic management in the area of the railway crossing.
- 1.2 Since that time the applicant has been progressing with the detail of the S106 agreement. However, there has also been further developments with the Site Allocations and Management of Development (SAMDev) Plan and as such a change in the weight which can be given to this part of the development plan. Since September 2014 the SAMDev examination has been undertaken, main modifications have been published and consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 1.3 The following is a review of the 'Principle and Policy of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed

alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below:

2.3 The Development Plan

For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The Policies in the North Shropshire Local Plan remain saved policies until the adoption of the SAMDev, however the policies in the NSLP could be argued to be out of date and as the SAMDev progresses the weight that can be given to NSLP policies reduces.

2.4 Shropshire Core Strategy policies CS1, CS3 and CS5 - Policies CS1 and CS3 of the Core Strategy set out the strategic approach to housing provision in the market towns, such as Wem. It is envisaged that the market towns will provide for substantial levels of new development, of an appropriate scale and design for each town and on allocated sites or within the development boundaries. Policies CS1 and CS3 are consistent with the objectives of the NPPF to focus new development in sustainable locations.

2.5 The site lies outside the development boundary for Wem as shown in both the NSLP and the forthcoming SAMDev. Therefore, the proposal would conflict with adopted Core Strategy policies CS1 and CS3 and falls to be assessed against adopted Core Strategy policy CS5. Policy CS5 states that new development will be strictly controlled in the countryside and only allows for exceptions in housing needs, including those to meet an essential rural business need or local need, none of which apply to this proposal. The proposal therefore also conflicts with CS5. It is considered that policy CS5 is consistent with the objectives of the NPPF to protect the intrinsic character and beauty of the countryside.

2.6 SAMDev Policy – The SAMDev is now considered to be at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.

2.7 Wem is identified in the Core Strategy as a market town. The SAMDev Plan provides a detailed map of showing the development boundary and detailed policy setting out the development guidelines for the town and identifying the allocated sites. Policy S17 advises that Wem will provide a focus for modest growth of approximately 500 dwellings and 4 hectares of employment land. The proposed allocated sites will provide for around 110 houses and are located on the north west and south west of Wem to limit the potential for further cross town traffic and to reflect significant safety and congestion concerns regarding the railway crossing to the east of the town. The modifications proposed in the Main Modifications relating to policy S17 relate to the requirement for development to

provide mitigation measures to remove any adverse effects on the SAC/ Ramsar site. There are no modifications proposed to the development boundary, the allocated sites or the concerns regarding the congestion on the railway crossing. The site is located outside of the development boundary for Wem, is not a proposed allocated site and also lies on the east of the town. As such the development of the site would also be contrary to the housing development policy in the SAMDev.

3.0 **Other material considerations**

- 3.1 The NPPF - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 3.2 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.
- 3.3 Ultimately the policies contained in the SAMDev Plan will therefore need to comply with the sustainable guidance set out in the Framework in order to proceed to adoption. Under the NPPF sustainable sites for housing where the adverse impacts do not outweigh the benefits of the development will still have a strong presumption in favour of permission when considered against the NPPF as a whole.
- 3.4 The February report to committee placed substantial weight on the NPPF and the consideration of sustainability and less weight on the SAMDev. The report noted that the site was well located in terms of access to the services and facilities in the town and that the scale of the development is not significant for the size of the town. The report also noted the economic benefits that would arise from the development in terms of CIL, construction jobs and support for local businesses etc. The report also accepted that the development would provide social benefits in terms of provision of affordable housing and that CIL contributions could be used to enhance school provision and would not result in any harm to neighbours amenities.
- 3.5 However, the report also noted that the land is grade 2 and 3 agricultural land and that the development would result in the loss of an area of good to moderate quality land. At the February committee officers and members acknowledged this impact but considered that the economic benefits of the housing development outweighed the economic benefit of retaining the agricultural use. Members may still come to the same conclusion now, however, the loss of the agricultural land is an adverse impact of the development which needs to be given weight in the balance.
- 3.6 Furthermore, the development of the site would be beyond the existing development boundary and would have some visual impact on the character of the area. Officers accept that the site is not highly visible from the main road into

and through Wem but it is visible from Aston Road, Church Lane and the adjacent development. The development of this site would have an impact in that it will alter the character of the site from its current use to residential development but officers acknowledge that the development will be read against the backdrop of the existing development and therefore that the visual impact is not significant and demonstrable.

- 3.7 The NPPF advises that the harm of a development has to be significant and demonstrable to outweigh the benefits in cases where the development plan is out of date, silent or absent. As Shropshire Council can now evidence a 5 year housing land supply it is considered that the Core Strategy is up to date policy and furthermore that the SAMDev is now at a stage where significant weight can be given to the policies not subject to modification. Therefore the test is no longer for the harm to be significant and demonstrable. The harm can be less than that and be considered to outweigh the benefits.
- 3.8 Traffic – Another harm identified in the February report, as identified in the Core Strategy and SAMDev is the harm to the traffic on the railway crossing. It is acknowledged that the development of this site would increase traffic on the railway crossing. There are 4 main roads out of Wem leading to Shrewsbury, Ellesmere, Whitchurch and Market Drayton. The roads to Shrewsbury, Ellesmere and Whitchurch are to the west of the railway crossing and therefore development to the west could access these roads without using the crossing. Any development to the east of the railway would increase traffic on the crossing to access three of the four main roads out of the town.
- 3.9 This harm was proposed to be mitigated through a financial contribution and although the agent has advised that the contribution is still proposed officers now consider that the harm of the additional traffic pressures should be given greater weight in the planning balance and, as with the impact on character, the harm does not have to be significant or demonstrable to outweigh the benefits.

4.0 Conclusion

- 4.1 The site is located outside the current Wem development boundary and is therefore classed as open countryside and a departure from the development plan, contrary to Core Strategy policies CS1, CS3 and CS5.
- 4.2 In light of the SAMDev Inspector not recommending any significant changes to the Wem strategy through her main modifications, it is considered that significant weight can now be placed upon policy S17, in a way consistent with paragraph 216 of the NPPF. Policy S17 does not allocate the application site for development and continues to place the site outside the development boundary. It is therefore considered that significant weight be given to policy Core Strategy CS5 given the site is located in the 'countryside' in policy terms, and that relevant policy constraints should apply. The Council can currently demonstrate a five year supply of housing land which further emphasises the significant weight that be given to SAMDev Policy S17 and Core Strategy policy CS5.
- 4.4 Whilst there are aspects of the development such as drainage, impact on neighbours and ecology which could be mitigated and therefore comply with the

relevant parts of adopted policies and the NPPF, it is considered that the development would result in harm to the character of the area, the loss of best and most versatile agricultural land and harm from the additional traffic pressure on the railway crossing and would therefore not comply with policies CS6 or CS9 of the Core Strategy or the NPPF as a whole.

- 4.5 The proposal would contribute to the supply of housing and generally provides some economic and social benefits to Shropshire. However, it is considered that the development does not meet the requirements of the NPPF as a whole in regards providing a sustainable development for the reasons given above. Accordingly officer's recommendation on this application has therefore changed since the February meeting and is now one of refusal for the following reasons:
- 4.6 *1. The proposal is considered to conflict with the Shropshire Core Strategy, Shropshire Site Allocations and Management of Development Plan (SAMDev) and the saved policies of the North Shropshire Local Plan as the development proposes housing development in an area identified as countryside for planning purposes which does not comply with the restricted development supported in the policies. The site is not a recognised site for development in accordance with SAMDev policy S17, Core Strategy policy CS5 or saved policy H5 of the North Shropshire Local Plan. The Council is also of the opinion that it can now demonstrate an adequate five year supply of house building land as required by paragraph 49 of the NPPF.*
- 4.7 *2. The development of the site is not considered to be sustainable development in accordance with the overall aims and objectives of NPPF by reason of the visual impact of the development, the environmental harm from developing grade 3 agricultural land and the harm arising from the additional traffic on the railway crossing junction. These adverse impacts are considered to be harm resulting from the development which is not outweighed by the benefits identified or any material considerations, including the financial contribution proposed to overcome the highway concerns.*

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its

planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 **Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 **BACKGROUND**

Relevant Planning Policies

National Planning Policy Framework

CS01 – Strategic Approach

CS03 – The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 – Environmental Networks

CS18 – Sustainable Water Management

SPD Type and Affordability of Housing

11.0 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
Councillor Pauline Dee
Councillor Chris Mellings

Appendices
APPENDIX 1 - Conditions



Committee and Date
 North Planning Committee
 29th September 2015

Item
9
 Public

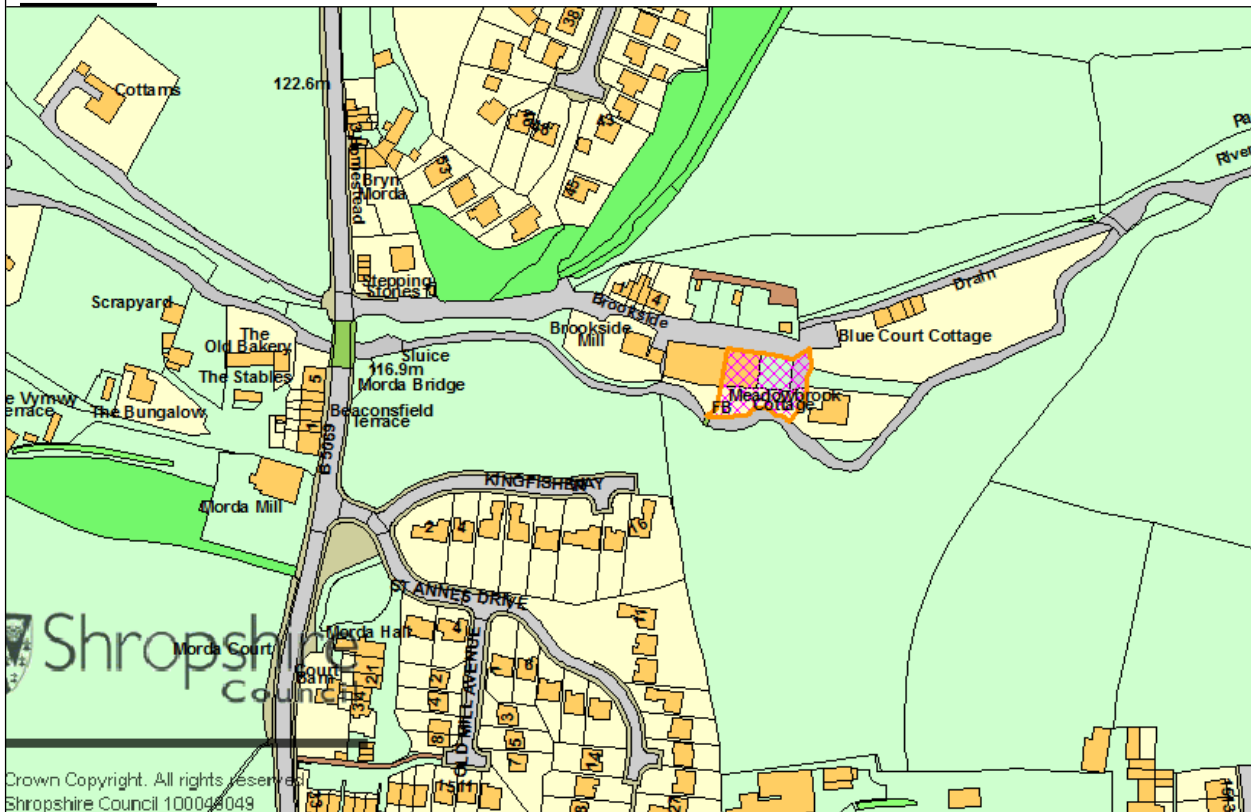
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 15/03386/COU	Parish:	Oswestry Rural
Proposal: Change of use from B2 to a mixed use of B1, B2 and B8 (storage)		
Site Address: Richardson Bros Brookside Morda Oswestry Shropshire		
Applicant: Mr H Richardson		
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 328995 - 328048



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

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning approval for the change of use of 2 Brookside Mill, Morda from the existing class B2 use (Joinery Workshop) to a mixed use of class B1 (office), B2 and B8 (Storage).

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site relates to a large, established workshop premises of steel frame and block walled construction located to the south of a no through, unmade access road off the B5069 within the village of Morda.

2.2 The proposal relates to the eastern half of the building with a floor area measuring approximately 363sq metres. Access is provided via a roller shutter within the east gable off an enclosed yard which currently provides parking for around 20 light goods vehicles and /or public carrier vehicles. The western half of the building, not forming part of the application site, is currently occupied by Cheesman Motor Repairs.

2.3 Internally the building comprises a large open workspace for the most part of full height with smaller rooms provided on galleried upper levels at either side.

2.4 To the north west of the application site are terraced cottages (Brookside) and to the west Brookside Mill, a detached cottage all of which are located on either side of the approach lane. Meadowbrook Cottage is situated immediately to the south east of the building and is the nearest affected neighbouring property at distance of around 25m from the application building. An additional property, Blue Court Cottage, is located to the north west at the far end of the lane.

2.5 The River Morda runs immediately to the south. To the north, on the other side of the lane is a small area of garden land beyond which is an open field.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The applicant is married to a member of staff currently employed within the Development Services section of Shropshire Council and therefore under the Shropshire Council scheme of delegation the application is required to be determined by planning committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Drainage – no objection subject to informative relating to flood resilience measures on account of the site being within flood zone 2.

4.1.2 SC Highways – no objection on the basis that the site premises enjoys the benefit of an unrestricted B2 Use Class. The highway authority consider that an

objection to change of use of the building to B1, B2 & B8 would be difficult to substantiate.

- 4.1.3 SC Public Protection – No objection but recommend a condition is placed to limit operating hours to that currently held on site or on neighbouring sites to ensure noise at night and at weekends etc. is not likely to increase should this application be granted approval.

4.2 - Public Comments

- 4.2.1 None received at time of writing.

- 4.2.2 Any further comments received prior to Committee shall be reported at the meeting.

5.0 THE MAIN ISSUES

- Principle and Suitability of Proposed Uses for the Site
- Amenity

6.0 OFFICER APPRAISAL

6.1 Principle and Suitability of Proposed Uses for the Site

- 6.1.1 The proposal is for the change of use of the existing established commercial workshop currently under B2 (General Industrial) use to include additional uses B1 (Office) and B8 (Storage).

- 6.1.2 It is explained that the proposed change of the use is intended to facilitate the building's sale and commercial reuse and that the commercial property has been marketed for sale for nearly 3 years. Enquiries from prospective purchasers have indicated they would require flexibility in the future use of the site.

- 6.1.3 The current B2 use relates to general industry and includes industrial processes other than ones falling within class B1 (office). This includes light industries as opposed to the heavier industrial processes generally covered under use classes B3 to B7.

- 6.1.4 The proposed B1 building use encompasses all or any of the following purposes:

(a) as an office other than a use within class A2 (financial and professional services),

(b) for research and development of products or processes, or

(c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

- 6.1.5 Under the General Permitted Development Order (GPDO) 2015 certain changes between classes are permitted without the need for planning permission. General industrial use (B2) can be changed to B1 business use without the need for planning permission provided the area affected is limited to 235 sq m of floor space. In this case the affected floor area measures 363 sq metres in

exceedance of the permitted limit and therefore planning permission is required.

- 6.1.6 The proposed B8 use relates to storage or distribution and also includes for open air storage.
- 6.1.7 Policy CS13 of the Shropshire Core Strategy encourages the development and diversification of the economy of Shropshire whilst Policy CS5 provides scope for the retention and appropriate expansion of existing established businesses provided other criteria contained within the Strategy are met.
- 6.1.9 The application site comprises a typically large purpose built commercial building and enclosed yard. It is stated that the proposal does not involve any proposed alterations to either the building or the overall site layout and it is considered that the proposed new uses could be accommodated within the existing premises.
- 6.1.10 In terms of the proposed storage/ distribution use although the site includes existing parking for around 20 light goods vehicles and/ or public carrier vehicles the unmade nature of the access road and proximity of residential properties, particularly those alongside the access road, entails that the site does not readily lend itself to the use of large heavy goods vehicles. If approval were to be granted it is recommended that this issue be dealt with by way of an appropriately worded condition limiting the scale of vehicles regularly visiting the site as part of any approved operation.
- 6.1.11 The Council's Highways Officer has been consulted on the proposal and commented that on the basis that the site premises enjoys the benefit of an unrestricted B2 Use Class, the highway authority consider that an objection to change of use of the building to B1, B2 & B8 would be difficult to substantiate.
- 6.1.12 Furthermore, it is also noted that whilst the lane is in a relatively poor condition access from the main road (B5069) is within a 30mph zone and along a relatively straight section of road.
- 6.1.13 The proposed change of use is considered to generally accord with the relevant policy framework as set out within Core Strategy policies CS5 and CS13.
- 6.2 Amenity
- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Core Strategy advocates that development should seek to safeguard residential and local amenity and given the close relationship between the existing commercial building and the surrounding residential properties the policy is particularly relevant to the consideration of this application.
- 6.2.2 The access lane to the application site also serves a number of residential properties, the nearest affected being Meadowbrook Cottage to the south west some 25m away. Ancillary domestic land is also located to the north of the site on the other side of the lane.
- 6.2.3 In view of the proximity of residential dwellings to the site the Council's Public Protection Officer has been consulted on the proposal. It is recommended that a

condition be placed to limit operating hours to that currently held on site or on neighbouring sites to ensure noise at night and at weekends etc. is not likely to increase should this application be granted approval.

6.2.4 The current B2 general industrial use means that the potential for the proposed new uses to generate any greater noise or odour nuisance is deemed to be comparatively low. B2 allows for a range of light industrial uses which could have greater implications for the amenity of neighbouring properties. The proposed office and storage uses are generally accepted to be fairly low intensity type uses with few 'bad neighbour' type implications. It is considered that any harmful effects would most likely be as a result of any traffic related issues from vehicles visiting the site particularly in connection with a storage and distribution type use as referred to under paragraph 6.1.10 where it is recommended that any such issues could be controlled by way of condition.

6.2.5 Officers are therefore of the view that the proposed change of use would not result in any significant additional harm to the amenity of surrounding residential properties.

7.0 CONCLUSION

7.1 The proposed change of use of the site to include for B1 and B8 uses alongside the existing B2 use is considered to be appropriate in this location. The proposal is deemed to have minimal impact on the character and appearance of the area and is considered unlikely to result in unacceptable impact on the residential amenities of neighbouring properties. Therefore the proposal is deemed to be in accordance with the NPPF and policies CS5, CS6 and CS13 of the Shropshire Core Strategy and is recommended for approval.

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 Green Belt

CS6 – Sustainable Design and Development Principles

CS13 – Economic Development, Enterprise and Employment

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Joyce Barrow

Appendices

APPENDIX 1 - Conditions

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

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

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

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

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

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

3. The change of use hereby approved and any subsequent operations shall relate primarily to the use of light goods vehicles and/ or public carrier vehicles as opposed to the regular use of heavy goods vehicles.

Reason: To safeguard the amenity of neighbouring properties.

4. The use hereby permitted shall not be carried out before 8am Monday -Fridays and 9am on Saturdays nor after 6pm on weekdays and 5pm on Saturdays; nor at anytime on Sundays , Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

Development Management Report

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

SCHEDULE OF APPEALS AS AT COMMITTEE 29th September 2015

Appeals Lodged

LPA reference	15/02195/FUL
Appeal against	Non Determination
Committee or Del. Decision	Due to be Delegated
Appellant	Mr A Hand – C/O Mrs C Williams
Proposal	Change of use of existing parking area to permit parking of 3 heavy goods vehicles and 2 trailers
Location	Jayroc Stables Shawbury Heath Shawbury SY4 4EA
Date of appeal	10.09.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/00910/out
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Edward Goff
Proposal	Outline application (all matters reserved) for the erection of 5 dwellings
Location	Land adjacent Valve House, Hindford, Whittington
Date of appeal	28.08.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04787/VAR
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr A Growcott – C/O Mr P Richards
Proposal	Variation of Condition No.1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans
Location	Land At Lostford Lane Wollerton Shropshire
Date of appeal	16.09.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	14/03696/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Wynne Jones
Proposal	Single storey dwelling
Location	Fernhill, Hollies Lane, Trefonen
Date of appeal	30.04.2015
Appeal method	Written Reps
Date site visit	17.08.2015
Date of appeal decision	15.09.2015
Costs awarded	
Appeal decision	Dismissed