

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

Date: Monday, 16 July 2018

**Committee:  
North Planning Committee**

**Date: Tuesday, 24 July 2018**

**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**

Roy Aldcroft  
Joyce Barrow  
Gerald Dakin  
Pauline Dee  
Rob Gittins  
Roger Hughes  
Vince Hunt (Vice Chairman)  
Mark Jones  
Paul Milner  
Peggy Mullock  
Paul Wynn (Chairman)

**Substitute Members of the Committee**

Nicholas Bardsley  
Karen Calder  
Steve Davenport  
Ann Hartley  
Simon Jones  
Matt Lee  
David Minnery  
John Price  
Brian Williams

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@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 26<sup>th</sup> June 2018, attached, marked 2.

Contact: Emily Marshall on 01743 257717

## 3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Monday, 23<sup>rd</sup> July 2018.

## 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 Broughall Fields Farm, Ash Road, Whitchurch, TF8 7BX (18/00324/MAW) (Pages 7 - 30)

Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons.

## 6 Corner Farm Welshampton, Ellesmere, Shropshire, SY12 0QA (18/01269/FUL) (Pages 31 - 66)

Extension to caravan and camping site to include change of use of land (re-submission).

## 7 Land At Winston, Ellesmere Road, Tetchill, Ellesmere, Shropshire (18/00833/FUL) (Pages 67 - 78)

Siting of 3 log cabins and construction of an associated access track and parking area and all associated works to include change of use of land.

## 8 Ifton Heath Former Primary School, Overton Road, Ifton Heath, St Martins, Oswestry (18/01959/VAR) (Pages 79 - 88)

Variation of Condition No.1 attached to permission 17/01284/VAR to allow for the family to remain on site for a further temporary period of twelve months

## 9 Appeals and Appeal Decisions (Pages 89 - 112)

## 10 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, in the Shrewsbury Room, Shirehall, Shrewsbury.



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## Committee and Date

North Planning Committee

24<sup>th</sup> July 2018

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 26 June 2018**

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

**2.00 - 3.04 pm**

**Responsible Officer:** Emily Marshall

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

### **Present**

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Joyce Barrow, Steve Davenport (Substitute for Gerald Dakin),

Ann Hartley (Substitute for Roger Hughes), Vince Hunt (Vice Chairman), Mark Jones,

Paul Milner and Peggy Mullock

### **12 Apologies for Absence**

Apologies for absence were received from Councillors Pauline Dee, Gerald Dakin (substitute: Steve Davenport), Roger Hughes (Substitute: Ann Hartley) and Rob Gittins.

### **13 Minutes**

The Principal Planning Officer asked that the word approximately be inserted into the final sentence on page 4, minute number 7, to read "The Principal Planning Officer informed members that approximately 50 per cent of the site was allocated for housing in the Council's Site Allocations and Management of Development (SAMDev) Document.

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 29<sup>th</sup> May 2018 be approved as a correct record and signed by the Chairman, subject to the above amendment.

### **14 Public Question Time**

There were no public questions or statements received.

### **15 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 Davenport joined the meeting at this point.*

**16 Land South Of Hollins Lane, Newport Road, Woodseaves, Market Drayton (17/05286/FUL)**

The Technical Specialist Planning Officer introduced the application under Section 73A of the Town and Country Planning Act 1990 for alterations to the approved agricultural building and installation of six additional biomass boilers and a drying floor 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.

The Technical Specialist Planning Officer confirmed that comments from the Council's Planning Ecologist had been received, confirming that they had no objection to the proposals and recommending that a suitable landscape scheme be conditioned.

In response to a question, the Agent confirmed that the woodchip that was present on site during the site visit was not from the applicants holding but there was enough material on the farm to run the boilers and they were happy with the proposed condition.

Having considered the submitted plans, Members unanimously expressed their support for the proposals commenting that the site visit had been useful, the development was in the right location and fitting into the surrounding landscape with no adverse impacts.

**RESOLVED:**

That delegated authority be granted to the Head of Planning Services to grant planning permission subject to the conditions set out in Appendix 1

**17 6 The Townsend, Ightfield, SY13 4NS (18/00477/FUL)**

*Councillor Paul Wynn as the local ward councillor for this application, vacated the Chair and Councillor Vince Hunt presided as Chairman for this item.*

The Principal Planning Officer introduced the application for the erection of detached garage workshop and store 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.

Councillor William Heywood-Lonsdale, on behalf of Ightfield Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- The size and scale of the building was too large for a domestic garage;
- The proposed scale would not be in keeping with neighbouring properties;

- The proposed garage looked more like a bungalow; and
- He had concerns about it being used as a commercial building.

Andy Hewitt, 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.

In response to concerns raised, the Principal Planning Officer confirmed that a condition to restrict use to the storage and preparation of vehicles and purposes incidental to the enjoyment of the residential dwelling, would ensure that it would not be used as a commercial building.

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**, subject to the conditions as set out in Appendix 1.

**18 Old Railway Station, Brownlow Road, Ellesmere, Shropshire, SY12 0AP (18/01027/OUT)**

The Technical Specialist Planning Officer introduced the hybrid application for a residential development of 65 dwellings; comprising outline application for the erection of up to 58 dwellings with all matters reserved and a full planning application for the conversion of "Old Railway Station" building into 7 apartments with car parking, access road, public open space and associated works. Members' attention was drawn to the information contained within the Schedule of Additional letters which set out a correction to paragraph 6.6.1 of the report, minor changes to the planning conditions set out in appendix 1, the inclusion of extra conditions and further comments from the Council's planning ecologist.

Councillor Judith Williams, on behalf of Ellesmere Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- She supported the development of this brownfield site for housing and the conversion of the station building;
- She had concerns relating to the access from Brownlow Road which currently served the Fullwood factory;
- The development could potentially create over 100 additional vehicles using Brownlow Road and would also have a significant impact on traffic levels

- using Trimpley Street and the junction with Willow Street, all of these roads were major pedestrian routes to and from primary and secondary schools; and
- Ellesmere welcomed new development particularly on a brownfield site, however the access arrangements and the consequent impact on pedestrian safety needed to be carefully considered in the future.

Darren Venebles, 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 expressed their support for the proposals, particularly the conversion of the station building, however it was felt that further discussions with the applicant in relation to future access arrangements would be beneficial. In response, the Technical Specialist Planning Officer drew members attention to the comments from highways contained in the report and confirmed that it was recommended that the applicant enter into a suitable Section 106 Agreement to secure funding to be retained by the Council to assess the scale of impact and undertake the appropriate road safety works were required.

The Chairman commented that he hoped that at reserved matters stage the possibility of access to the Fullwood area could be taken into account should it become available in the future.

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 proposals, subject to further discussions in relation to future access arrangements.

**RESOLVED:**

That delegated authority be granted to the Head of Planning Services to grant planning permission subject to:

- The amended set of conditions as set out in the Schedule of Additional Letters;
- The applicant entering into a s106 agreement to secure an affordable housing contribution and £10,000 for highway works;
- Further discussions with the applicant in relation to future access arrangements; and
- The satisfactory resolution of any outstanding ecological issues.

**19 Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 24<sup>th</sup> July 2018 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)  
.....



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Date:

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Committee and Date  
 North Planning Committee  
 24 July 2018

Item  
**5**  
 Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 18/00324/MAW	<b><u>Parish:</u></b> Whitchurch Urban
<b><u>Proposal:</u></b> Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons	
<b><u>Site Address:</u></b> Broughall Fields Farm, Ash Road, Whitchurch, TF8 7BX	
<b><u>Applicant:</u></b> Whitchurch Biogas Ltd	
<b><u>Case Officer:</u></b> Graham French	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1**



**Figure 1 – Site Location and layout**

## REPORT

### 1.0 THE PROPOSAL

1.1 Planning permission for construction of an Anaerobic Digester (AD) plant at Broughall Fields Farm was granted to the applicant, Whitchurch Biogas Ltd on 19<sup>th</sup> December 2014 (14/01398/MAW). Further applications have subsequently been submitted to vary the layout, feedstock throughput, operation, and management of the AD site. Permission for the current application was approved on 30<sup>th</sup> March 2017. The site is now constructed and operational:

“Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site” (Ref: 16/04784/VAR)

1.2 The current development would involve the following elements:

- Digestate Storage Tank converted to a Digester: The applicant advises that conversion of an existing digestate storage tank to a digester will work the current digester less hard and will maximise biogas capture. The conversion will not alter the appearance of the current digestate storage tank.
- Additional Feedstock Clamps: The site currently has sufficient clamp space for approximately 32% of the energy crop feedstock. Making use of unproductive space within the existing site through the addition of clamps will increase crop storage capacity by an additional 29%, reducing reliance on satellite storage, double handling and therefore local vehicle movements.
- Addition of Log Drying Area: The applicants advise that they are committed to provide a district heating scheme, which will include providing heat to Grocontinental as well as electricity. As this project advances it is important to find an interim use for the heat, which would otherwise go to waste. An opportunity has arisen to dry logs in conjunction with a local supplier.
- Addition of a Liquids Buffer Tank: This tank will allow for greater flexibility of liquids storage whether that be digestate, whey, or water.
- Addition of a Storage Container: This container will house tools used to maintain the site.
- Digestate lagoons: A 2ha extension to the existing AD site boundary is proposed in order to accommodate two digestate storage lagoons (to be located on agricultural land south east of the existing site boundary).

1.3 The applicant wished to pursue some further amendments as part of application 16/04784/VAR, including log drying and conversion of the digestate tank to a second digester vessel but was informed that these additions exceeded what could be achieved under the variation application process. Consequently these amendments have been carried forward into the current application, although a new digestate tank originally proposed within the existing site has now been replaced by the proposed digestate lagoons.

1.4 The applicant states that the increase in digestate storage capacity will allow greater flexibility in digestate management. A temporary umbilical pipe can be attached to the lagoons which will open up a large land spreading area, with digestate pumped straight from the lagoon to the land rather than requiring road transport. Where umbilical emptying is not possible the lagoons will be emptied with digestate pumped back to the

AD site and loaded to tanker before being exported off site using the main access. This installation will reduce reliance on satellite storage and double handling, and will reduce tractor and tanker movements in the transport of digestate away from the site. The lagoons will provide 25,000 metres<sup>3</sup> of digestate storage which will cater for over 70% of digestate produced.

## 2.0 SITE LOCATION / DESCRIPTION

2.1 The application site (4.06ha) comprises the existing AD site (2.06ha) and a 2ha extension onto adjoining agricultural land to accommodate the proposed digestate lagoons). The AD site is located to the east of the A525 Whitchurch By-Pass and the applicant's warehouses on the Waymills Industrial Estate. The site sits just outside of the Development Boundary of Whitchurch as defined in the Place Plan. The surrounding landscape comprises a mixture of industrial and commercial development and intensively managed agricultural land. The nearest residential property is located 130m to the north east. The site is not affected by any statutory rural or historic designations. Brown Moss, a RAMSAR site, SSSI and Local Nature Reserve, is located approximately 900 metres to the south.

2.2 Grocontinental is one of the largest international storage and distribution companies in the UK. The 30 acre unit at Whitchurch oversees 143,000 pallet spaces of multi-temperature storage and 5,000 daily pallet movements, controlled by systems technology. The company is a major employer and performs a vital role in supporting the wider food industry in Shropshire.

## 3. REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposals have been referred to the Committee by the local member under the Council's scheme of delegation as they relate to major development raising complex issues and the Town Council has objected.

## 4. CONSULTEE RESPONSES

4.1i. Whitchurch Town Council – Whitchurch Town Council object to the application with the following comments: NPPF 98. The application does not demonstrate that it meets the criteria to identify a suitable area, that there is now a commercial scale project involved with regard to the log drying and the site will become industrial. The application for lagoons is outside the current site boundary and no application has been made to increase the boundary – drawing SA28899\_PL\_01.

NPPF 109. The planning system should contribute to and enhance the natural and local environment ....: The AD plant is not minimising impact on the natural and local environment and is producing a mono-culture by encouraging the singular cultivation of maize.

NPPF 110. Minimise pollution and other adverse effects on the local and natural environment. Whitchurch Town Council is concerned about leakage into local water courses, especially Staggs Brook, which is home to protected water voles. Similarly, there is piping which runs near Brown Moss which is a SSSI site. Have the company put in place an emergency strategy should there be a leak? Have the company written an odour management plan? The allocated land is good agricultural land and was a former dairy farm, therefore will be a loss of agricultural land.

NPPF 112. ... take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is

demonstrated to be necessary, LPAs should seek to use area of poorer quality land in preference to that of a higher quality. WTC recommend that the applicant seeks an alternative site of poorer agricultural land as a site for the lagoons.

NPPF 120: To prevent unacceptable risks from pollution and land instability, ..... the applications refers to 5.5million gallons of liquid digestate, WTC believe that this amount of liquid could prove a threat to pollution. If the application is approved, the LPA should ensure that the AD plant adheres to BSI PAS 110.

- ii.
  1. Log drying turns the site into an industrial site, which in turn sets a precedent.
  2. Currently, it is understood that farmers who supply maize to the site have a 5 year contract with the AD Plant company to supply. What happens after the 5-year contract ends and farmers no longer wish to supply maize, where will the feedstock come from? If the feedstock is not provided by local farms this will further increase traffic movement. Do the company have a forward-looking business plan?
  3. Traffic movements – Whitchurch Town Council questions the statement that there will be no increase in traffic movement, especially with respect to removing this amount of solid digestate from the site. Much of the feedstock and digestate will be moved by tractor haulage.
  4. Lagoons – Whitchurch Town Council question the safety and integrity of the membrane suggested. How will the company prevent gassing-off and odours escaping from the digestate through this membrane.
  5. Lagoons – Why has no safety fencing been included on the application when it is an open field site?
  6. Pollution – no audit from the amount of pollution due to tractor diesel exhaust fumes has been provided which will provide pollution, especially in Ash. This contradicts the Government’s environmental policy.
  7. LPA to note that the planning condition to alter the entrance to the AD site from the highway has not been completed.
  8. LPA to note that there is considerable damage to the Ash Road from the tractors hauling the digestate, Whitchurch Town Council recommend that the applicant installs passing places on this road and regular sweeps of the road to remove the mud.
  9. LPA to note that there will be additional road tractor traffic at harvest time.
  10. LPA to note that SP Energy stated that there is no shortage of electricity in Whitchurch
  11. LPA to note that Grocontinental have not installed PV panels that they have planning permission for.
  12. LPA to note what concentration levels of pesticide there will be in the digestate and Whitchurch Town Council express concerns about the cumulation in the ground and effect on the environment.
  13. LPA to note that this site is not included within the SAMDev.

#### 4.2 Whitchurch Rural Parish Council: Objection on the following grounds:

1. The original traffic conditions have not been completed/complied with to alter entrance to highway from AD site.
2. Environmental impact: Council members raised concerns over possible leaks which may have a significant detrimental impact on Brown Moss SSSI - A suggestion was proffered that leakage warning detection system should have been included - Potentially contrary to CS 17 and NPPF110.
2. Environment impact: Concerns over the possible impact from leakages on local water sources and protected species (Staggs Brook - water voles) - contrary to

CS18.

3. Industrialisation of agricultural land - contrary to CS6, CS 17.
4. Detrimental visual impact on the approach to the town- inappropriate scale of industrial development in this location which is agricultural land - contrary to strategic objectives 7 and 11 of the core strategy. Contrary to NPPF 112.
5. Increased traffic volume concerns through the narrow lanes of the parish - deterioration of road surfaces, highway safety concerns.
6. Public health and safety concerns - lagoon proposals shown open pits - these should be secured in the interests of safety.
7. Environmental impact: concerns over possible pollution have been raised and the possible detrimental impact on public health.
8. Log drying enterprise will increase industrial activity on the site and inevitably increase traffic movements.
9. This application will increase the footprint of the current operation and will extend beyond the current boundary.

- 4.3i. Environment Agency: - No objections. We wrote to H&C Consultancy (acting on behalf of Iona Capital Limited) on 21 November 2016 agreeing the 'by-product' submission for 'whey permeate' used as an Anaerobic Digestion (AD) feedstock for Belton Cheese Limited. It should be noted that our current by-product agreement does not extend to feedstocks other than Whey permeate in the form described in H&C Consultancy's submission made on 7 September 2016. Furthermore, our by-product agreement does not extend to producers of Whey Permeate other than Belton Cheese Limited. Therefore, at present we don't regulate this site. We wrote to Whitchurch Biogas Limited on 22 December 2016 stating "If the feedstock material is deemed waste by the Environment Agency, or if the company subsequently decide to accept and treat another waste feedstock, an application for an Environmental Permit will be required before you accept that waste stream". Therefore, if new waste streams are proposed an Environmental Permit may be required to operate the facility. The planning proposal states that there will be no change to the maximum design throughput of the plant. As such, if treating new waste, an Installation permit as defined in Environmental Permitting (England and Wales) Regulations 2016 (EPR) Schedule 1 Part 2 Section 5.4 Part A(1)(b)(i) may be required.
- ii. Pollution Control: If operating an Installation, the design, operation and management of all containment structures of the facility should be in accordance with appropriate guidance such as CIRIA C736 - Containment systems for the prevention of pollution Secondary, tertiary and other measures for industrial and commercial premises. The proposed open storage lagoons should only store stabilised digestate to reduce the risk of odour pollution from gassing digestate. The use of a repurposed tank for anaerobic digestion should only be used with appropriate:
- HAZOP
  - Process monitoring control
  - Materials of construction
  - Primary containment of both phases
  - Secondary containment
  - Mixing
  - Safety measures e.g. pressure/vacuum relief, lightning protection etc.
- iii. Best available techniques (BAT) are the standards that Installations are required to adopt when applying for and operating under an Environmental Permit. Operators are

regulated by the EA to meet BAT. Where infrastructure, plant and equipment design does not have the same level of environmental protection as BAT there may be an increased risk of pollution to the environment. However, to ensure the facility is compliant and future proof we would recommend that the above measures are included in the design of the proposed infrastructure. If the applicant wishes to discuss the above containment/liner requirements then please contact Alex Wilson in our EPR Installations team based in Warrington – 02030 250391. Similarly, should the company wish to apply for an Environmental Permit, please do not hesitate to contact us to arrange for pre-application advice.

- iv. Groundwater / Sub water table storage: With regard to groundwater protection and given that some of the storage is partly below ground, we note that the lagoon will be engineered to ensure the base is “a minimum 1 metre above the groundwater level”, based on information from the existing borehole logs. This is considered acceptable to help minimise impact upon controlled waters.

4.4 Natural England: No objection subject to the following comments.

- i. Internationally and nationally designated sites: The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites) and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Brown Moss Special Area of Conservation (SAC) which is a European site. The site is also listed as part of the Midlands Meres and Mosses Phase 1 Ramsar site ' and also notified at a national level as Brown Moss Site of Special Scientific Interest (SSSI). In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.
- ii. Habitat Regulations Assessment (HRA) Required: The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:
  - the proposal is not necessary for the management of the European site
  - that the environmental pathways to consider are through emissions to the air and water quality.

We note some information has been provided by the applicants which may help you undertake your HRA.

4.5i. Public Protection – No objection.

- 4.6i. Highways Development Control: (22/02/18) Objection – further details required. There is insufficient detail submitted with the application to make an informed Highway comment, at this time.



- ii. Observations/Comments: The application seeks approval for additional infrastructure and two digestate storage lagoons as part of the Anaerobic Digester site which was previously approved under planning permission 14/01398/MAW (and varied by 16/04784/VAR). The submitted Planning Application Supporting Statement describes the site history and additional infrastructure and clearly states that the Anaerobic Digester plant is operational (Paragraph 1.1.2 and Section 3.1). It is also clearly stated that the proposed infrastructure will not increase feedstock throughput or traffic movements. Section 4.3 of the Planning Application Supporting Statement makes reference to access but the content is considered to be both vague and ambiguous.
- iii. It is noted from passing the site recently that the Highway and Access improvement works to the A525 which were detailed on the Site Access Arrangements Plan (Drawing No. GC-SA-100 Revision E) and approved in principle, subject to Condition 8 of planning permission 16/04784/VAR, have not yet been commenced. There also appears to be no record of an approach from the applicant or site operator to progress the design or implementation of the works. In order to satisfy the requirements of the Highway Authority, design, engineering and construction details of the works to the A525 need to be technically approved to enable the completion of a legal agreement under Section 278 of the Highways Act 1980 before implementation of the works within the Highway. It is, therefore, considered that an amended or supplementary Planning Application Supporting Statement is required which confirms the applicant's intentions regarding compliance with Condition 8 of planning permission 16/04784/VAR, including an estimated timescale for the implementation of the works, before the current application is progressed.
- 4.7i. Natural Environment - Ecology: No objection. Conditions and informative notes are recommended. Habitat Regulations Assessment.
- ii. The proposal is within close proximity to Brown Moss SAC/Ramsar. The proposal is for additional infrastructure within an operational AD site, and for two digestate lagoons on an adjacent field. Additional infrastructure at the site includes conversion of a digestate store to a digester, additional clamp space, the addition of a log drying area, the addition of a liquids buffer tank, and the addition of a tools storage container. This subordinate infrastructure is required to maximise operational efficiency at the site and to make use of renewable heat.
- The proposals will not increase feedstock throughput at the site.
  - Vehicle movements will not be increased as a result of this proposal.
  - The operations of this site will otherwise remain as present.
  - Provision of a floating cover for the digestate lagoon will ensure that any remaining emissions from the digestate will be contained (this must be conditioned on a planning decision notice).
  - Construction of the lagoons will be to a quality assured standard and fitting of leak detection measures or other equivalent safeguards.
  - By having a second digester tank in place, it will work the current digester more efficiently and will maximise biogas capture. Ultimately this will result in a higher biogas yield off the same feedstock amount.
  - The increase in digestate storage capacity in this location will allow greater flexibility in its release from the site and its application.
  - Permitted, implemented, and proposed landscaping measures on and around the AD site has the opportunity to enhance the site for biodiversity.

- iii. SC Ecology has not identified an effect pathway by which this proposal could impact Brown Moss Ramsar/SSSI.
- 4.8 Rights Of Way: – No objections. There are no recorded public rights of way affected by the proposal.
- 4.9 Historic Environment - Conservation: No objections.
- 4.10 Flood & Water Management: No objection subject to conditions.
- 4.11 Councillor Mr Gerald Dakin (Whitchurch South) – has been informed of the proposals.

#### PUBLIC REPRESENTATIONS

- 4.12 The application has been advertised in the press and by site notice and the nearest properties have been individually notified. Objections have been received from 10 individuals. The grounds of objection are summarised below:
  - i. Predetermination: The applicant has pre-empted the outcome of the current application so, we had a feedstock storage shed masquerading as a workshop and the construction not being in accord with the agreed plans and with space available for the deleted digestate store. This gives the impression that SC is complicit in the next variation to the site.
  - ii. Inappropriate development in the countryside: The location of the AD is outside of the Whitchurch development boundary and the location for the digestate lagoons is even further outside of the development boundary.
  - iii. Precedent and potential for further intensification:
  - iv. Misleading application: Not a farm-based AD facility. Broughall Fields Farm is not a dairy farm; it is an arable farm that seems to be given over totally to the supply of feedstock to the digester. Surely the application should ask for a change to the site boundary and a change of use from agricultural land. Log drying is an industrial process yet the use class for the application is sui generis.
  - v. Digestate management: much of the land that it is intended to spread the digestate on is some miles from the AD.
  - vi. Visual impact: The applicant admits that the lagoons will be visible from a public road, public footpath, bridleway or other public land. However, they try to mitigate this by saying that it would be normal to see such a lagoon on a dairy farm. These lagoons will be sited in an open field away from the AD site surely it will need a security fence, if so, that will also be visible and totally out of place in the middle of an arable field in open countryside. Waiting to see all the tree planting which will be necessary to screen the site from the A525. The overgrown roadside hedge does not constitute landscaping.
  - vii. Damage to the Environment: Any accidental leakage would naturally run down the hill contaminating the land and into the nearest watercourse. The nearest watercourse feeds into Staggs Brook so there is a potential for major environmental pollution. Leaks from lagoons are a common occurrence, which is why a leakage detection system is usually

installed.

- viii. Odour: As the lagoons will need to be vented to prevent the build-up of greenhouse gasses an odour report is surely required considering their close proximity to the Shropshire way. The Lagoons will store 5.5 million gallons they are covered with a floating membrane not a plastic envelope as in the previous application I am concerned that they are not going to be a sealed envelope as in the previous application because of the risk of odour and the possible increase in storage required to take into account any rainwater getting into the lagoons. It is proposed to pipe the liquid over ground by temporary umbilical hose to the same farms in Ash area if this application is approved there should a condition attached to the spreading of this liquid digestate that it has to be applied by injecting into the soil to reduce odour and run off being so close to domestic dwellings and close to Brown Moss nature reserve and pool
- ix. Traffic: It is assumed that it is only the whey that is delivered by HCV, which leaves 28,000 tonnes of crops that are harvested and delivered by tractors and trailers as it would not be possible for crops to be transferred to an HGV from a trailer The construction of additional silage clamps will enable the site to hold more silage and will, therefore, vastly increase the volume of traffic at harvest time, which is made up exclusively of large tractors and trailers delivering directly from the harvested fields. On site storage of solid feedstock at present is 32% proposed to increase this by 29% this is still 29% short of the requirements for one year which is equates to 8120 tons = 406 trailer loads which is being stored on farms in the Ash Magna /Parva, and is transported down Ash Road which is already very congested with HGV's . There is some feedstock stored on land adjacent to the site in plastic sausages why can this area be used to store the shortfall? The supporting statement states the above will not increase traffic movements on and off the site I cannot see how this is achievable.
- x. Safety: Concern about safety controls and safety of lagoons.

## 5. THE MAIN ISSUES

- Principle of the development and the proposed variation;
- Environmental implications of the proposed variation, with reference to:
  - odour;
  - traffic;
  - noise and vibration;
  - visual impact;
  - air quality and health
  - water resources;
  - community benefits.
- Other issues including enforcement and waste licensing.

## 6. OFFICER APPRAISAL

### 6.1 Need for the development:

- 6.1.1 Need – context: The principle of establishing an Anaerobic Digestion facility at this site was established by the original permission reference 14/01398/FUL and has been reaffirmed by the subsequent permission (16/04784/VAR). If the current variation application was not to proceed then the fall-back position for the applicant would be to continue to use the existing approved layout. The main issue to consider therefore is

whether the amendments proposed under the current application can be supported by relevant policies and guidance in the context of the existing permissions.

- 6.1.2 The proposals are linked to a renewable energy scheme. The National Planning Policy Framework advises that planning authorities should not require applicants for renewable energy schemes to demonstrate the overall need for the renewable energy (para. 98). The applicant has however put forward a number of justifications in support of the need for the proposals which are considered below.
- 6.1.3 Need – use of heat energy: The proposals would allow heat energy from the CHP units to be utilised beneficially to dry timber within the site, thereby allowing full utilisation of renewable heat energy from the AD process as well as renewable electricity. At present not all renewable heat energy generated by the CHP units is being effectively utilised. The applicant intends to install a district heating scheme using renewable heat from the facility but there will be a delay before this can be implemented. The current proposals would allow surplus heat energy from the AD operation to be used constructively in the interim period before the district heating scheme comes on line. This is in accordance with NPPF paragraphs 97 and 98.
- 6.1.4 Need: More efficient AD process: At present there is just one digester tank at the site and an adjacent tank is used for digestate storage. However, the variation approved in 2017 (16/04784/VAR) allowed an increase in the amount of feedstock at the site from 26,000 to 43,000 tonnes per annum. This has meant that the single digester will need to operate at an increased capacity which could reduce the efficiency of biogas recovery. The applicant states that the proposal to convert the digestate tank to a second digester will ensure that biogas production and recovery can be maximised. This in turn will increase the renewable energy yield at the site and lead to a more robust and flexible AD process.
- 6.1.5 Need – Improved digestate management: The increase in feedstock under the 2017 permission (16/04784/VAR) resulted in increased digestate volumes. However, there was no equivalent increase in digestate storage capacity so digestate currently needs to be exported from the site at an increased frequency. The proposals would deliver 25,000 metres<sup>3</sup> of digestate storage capacity, catering for over 70% of digestate produced. The proposed digestate lagoon site benefits operationally from being immediately adjacent to the site and also adjoins a large area of arable fields. It will therefore be possible to deliver digestate directly to the fields by pumping which will reduce the need to transport digestate to fields by tanker. If the local fields are not ready to receive the digestate then the option would exist of pumping digestate back from the lagoons to the proposed buffer tank where it would then be used to fill tankers for export to other local fields. Overall this provides greater flexibility to allow improved digestate management with the potential for a significant reduction in the amount of digestate transport overall on the public highway.
- 6.1.6 Need – conclusion: The need for renewable energy and the climate change benefits of the proposals are supported by the NPPF (para 97, 98). It is accepted that the proposals would allow 1) improved utilisation of surplus heat, 2) improved AD process efficiency and 3) improved digestate management. The justification for the proposals can therefore be accepted. It is also necessary however to assess the other potential effects of the proposals on the environment in order to determine whether the proposed variation can benefit from the NPPF presumption in favour of sustainable development.

## 6.2 Environmental considerations

- 6.2.1 Access and traffic: The AD permission requires improvements to the site's access with the public highway. A legal agreement with the Highway Authority has been completed and the access works are being undertaken. Objectors expressed concerns at the use of the existing 'unimproved' site access for importation of maize during the autumn 2017 harvest season and have subsequently reiterated these concerns. In anticipation of the maize harvest the applicant put in place additional highway control measures agreed by the Highway Authority. The situation has now been resolved through completion of the highway legal agreement and implementation of the access improvement works.
- 6.2.2 Digestate storage and traffic movements: Objectors have questioned the applicant's statement that there will be no increase in traffic to the facility, particularly with respect to solid digestate movements and log drying operations. The original permission (14/01398/MAW) allowed maximum feedstock inputs of up to 26,000 tonnes per annum, yielding approximately 80% of this volume in liquid and solid digestate. The scheme approved under permission 14/01398/MAW was designed to cater for this volume of digestate storage capacity and included the provision of a single storage tank. The subsequent permission 16/04784/VAR increased the amount of feedstock allowed at the site by 17,000 tonne to 43,000 tonnes per annum. Thereby, yielding an equivalent increase in the amount of digestate to be stored at the site.
- 6.2.3 The applicant had initially sought to accommodate the additional feedstock by converting the digestate storage tank into a second digester tank. Digestate was then to have been stored in a proposed new storage tank on the site of the site nearest to the public highway. However, it was not possible for the applicant to progress this under the variation application which the Council was considering at the time (16/04784/VAR). Some additional concerns were also raised by Historic Environment regarding the potential visibility of the proposed new storage tank.
- 6.2.4 The current application involves conversion of the existing digestate tank to a digester so the additional feedstock allowed under permission 16/04784/VAR can be managed more efficiently to maximise biogas yields. In place of the originally proposed new digestate tank the proposals now involve the provision of 2 storage lagoons in a less visible location to the rear of the AD site. The lagoons would deliver increased digestate storage capacity sufficient to store 70% of the site's annual digestate total.
- 6.2.5 There may still be a requirement to remove some digestate, including solid digestate via the public highway. However, solid digestate comprises a small fraction of total and the levels of digestate traffic overall would be reduced significantly compared with the currently approved scheme.
- 6.2.6 Planning permission 16/04784/VAR (issued 30/03/17) secured some funding for off-site highway improvements which will facilitate the provision of passing places on Ash Road as requested by Whitchurch Town Council. Permission 14/01398/MAW also secured adherence to a voluntary scheme of traffic management. This is in addition to the reduction in digestate movements on the public highway which the current proposals would deliver.
- 6.2.7 The applicant states that the proposed log drying operation will involve the rotation of a maximum of 6 drying containers (12 individual movements) per week, which equates to a maximum of 624 movements per year. This will however be offset by vehicle

movements saved in the transport of digestate away from the site given the ability to spread digestate directly to surrounding farmland via an umbilical cord. The existing permission results in generation of approximately 34,000 tonnes of digestate per annum or 1274 movements by 27 tonne loads per year (3.5 movements per day). The current proposals would reduce off-site movements of digestate by a minimum of 50% (637 movements per year). This supports the applicant's conclusion that there would be no overall increase in vehicle movements as a result of the current proposals.

- 6.2.8 The Council's highway consultant recommended that further information should be provided in relation to vehicle movements. However, detailed traffic information was included in the previous application (16/04784/VAR) and this remains valid. The applicant has stated that there would be no overall increase in vehicle movements and this is accepted given that traffic associated with the log-drying operation would be balanced by the reduction in traffic associated with digestate removal. It is concluded that refusal on highway grounds would not be justified.
- 6.2.9 Lagoons and odour: Objectors have expressed concerns that the proposed digestate lagoons may give rise to odour as they would be open to the atmosphere. However, the digestate would be stabilised through the AD process and experience with other Shropshire AD sites indicates that stabilised digestate is not generally a cause of odour related complaints and the applicant has confirmed that the lagoons would be fitted with membranes.
- 6.2.11 The previous application included an odour impact assessment which concludes as follows: 'Dispersion modelling has been completed, which predicts that the proposed development will not lead to unacceptable odour impacts, particularly given the agricultural nature of the feedstocks which are typical of the site setting. The operation of the site in accordance with an Odour Management Plan will ensure that remains the case during typical operation and abnormal events'. The Council's Public Protection team supported this conclusion with respect to the currently permitted development and the Environment Agency has not objected. It is considered that the measures proposed by the applicant with respect to the current proposals are also sufficient to prevent any reasonably foreseeable loss to amenity at neighbouring residences.
- 6.2.12 Lagoon safety: Objectors are concerned that the lagoons may pose a safety risk so fencing should be provided. The lagoons are located at the edge of an agricultural field and are not in an area with public access. Notwithstanding this, a condition has been recommended requiring details of safety fencing to be provided.
- 6.3 Other matters:
- 6.3.1 Development precedent: Whitchurch Town Council has expressed concern that the proposed log drying activity would establish a precedent for further industrial use at the site. The officer considers that this would not be the case. The log drying area is well contained within the centre of the permitted AD site and this operation is dependent on and ancillary to the main AD activity.
- 6.3.2 Feedstock supply: Objectors have queried what happens when the current 5 year contracts to supply maize to the AD facility end. The principle of allowing an AD operation at the site has already been established. Whilst the detailed contractual mechanisms for securing feedstock supply are not a direct planning concern the types of allowed feedstock are specified in the current operational consent. Whilst there is no stated

intention to vary the feedstock types it should be noted that any material change in feedstock types would require a formal variation to the current planning. The Environment Agency has reaffirmed that the current feedstocks are not classed as 'wastes'. As such, proposals would not require an environmental permit.

- 6.3.3 Noise and hours of working: Traffic noise from the Whitchurch By-Pass forms part of the local noise climate for the site at most times. The anaerobic digestion process is itself silent. The four CHP engines are a source of noise but are located in acoustically attenuated containers. Regulatory Services (Public Protection) have recently inspected the site and its environs and have not identified any concerns in relation to noise. The current proposals are not anticipated to add to any sources on noise within the site. No complaints regarding noise have been received since the site became operational. There is a significant separation distance between the site and the nearest residential properties.
- 6.3.4 Visual impact: The current proposals would not change the appearance of the site as seen from the public highway. Landscaping measures have been undertaken linked to the operational AD consent including a substantial area of tree planting to the immediate south of the site.
- 6.3.5 Ecology Natural England has advised that a Habitat Regulations Assessment should be undertaken given that the site is located 950m north of the Brown Moss SSSI/RAMSAR site and Special Area of Conservation. This has been undertaken by the Council's ecology section who has found no sour-receptor pathways between the site and the proposed development. SC Ecology conclude that there would be no impact to Brown Moss. Conditions relating to landscaping and habitat management have been recommended and these have been included in Appendix 1.
- 6.3.6 The applicant has confirmed that the lagoons would be constructed to a quality assured standard and fitted with leak detection and the base of the lagoons would be located a minimum of 1m above the groundwater table. The Environment Agency has not objected. It is considered that the proposals can be accepted in relation to ecology and biodiversity. (Core Strategy Policy CS17, NPPF chapter 11.
- 6.3.7 Water resources: A Flood Risk Assessment accompanied the previous permission and confirms that the site is not located in an area of flood risk. The line of a blocked up watercourse running through the site has previously been diverted around the edge of the site so that if the watercourse is reinstated at some time in the future the flow can continue around the site. (Core Strategy Policy CS18; NPPF – natural environment (s110))
- 6.3.11 Lighting: The proposed site is located away from private dwellings. Low levels of external lighting are currently employed and no further lighting is proposed under the current proposals.
- 6.4 Effect of any grant of permission
- 6.4.1 The current operational consent (16/04784/VAR) was issued on 30<sup>th</sup> March 2017. As a variation application this superseded the original AD permission 14/01398/MAW, securing a number of layout changes and an increase in output. The current application is for a 'full' application. If approved, this would sit alongside the main operational consent 16/04784/VAR rather than superseding it.

## 7.0 CONCLUSION

- 7.1 The principle of allowing an AD scheme has been established by the previous planning consents (14/01398/MAW & 16/04784/VAR). The current proposals represent a further development of the AD site which would allow improved digestate management and improved utilization of surplus heat.
- 7.2 The individual issues raised by the proposals have been assessed. No environmental issues have been identified which would suggest any material conflict with relevant development plan policies. There would be no overall increase in traffic relative to the currently approved scheme. Improvements to the site access are in the process of being completed.
- 7.3 The NPPF requires that applications for renewable energy should be approved if the impacts are, or can be made, acceptable (s98). It is concluded that the proposals are capable of being accepted in relation to relevant development plan policies and other relevant considerations. Approval is therefore recommended subject to the conditions set out in appendix 1.

## 8. RISK MANAGEMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

8.2.1 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

8.3.1 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.

### 8.4 Financial Implications

8.4.1 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.

## 9. BACKGROUND

### RELEVANT PLANNING POLICIES

#### Central Government Guidance:

#### 9.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

9.1.1 The National Planning Policy Framework (NPPF) advises that 'development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

9.1.2 The Government's objective is that planning should support the transition to a low carbon economy in a changing climate, for instance, by the development of renewable energy (s17). To help increase the use and supply of renewable and low-carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low-carbon sources. They should:

- have a positive strategy to promote energy from renewable and low-carbon sources, including deep geothermal energy;
- design their policies to maximise renewable and low-carbon energy development while ensuring that adverse impacts are addressed satisfactorily;
- consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers (s97).

9.1.3 When determining planning applications, local planning authorities should apply the presumption in favour of sustainable development and:

- not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once opportunity areas for renewable and low-carbon energy have been mapped in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying opportunity areas (s98).

#### 9.1.4 Relevant areas covered by the NPPF include:

- 1. Building a strong, competitive economy;
- 2. Ensuring the vitality of town centres;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 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;

#### 9.2 Core Strategy:

##### 9.2.1 The Shropshire Core Strategy was adopted in February 2011 and sets out strategic objectives including:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

##### 9.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS13: Economic Development, Enterprise and Employment;
- CS14: Managed release of Employment Land
- CS16: Tourism, Culture and Leisure
- CS17: Environmental Networks
- CS18: Sustainable Water Management

##### 9.2.3 Site Management and Allocation of Development Document (SAMDEV) – The site falls within the Whitchurch area of the emerging SAMDEV but is not subject to any specific

allocation. The SAMDEV acknowledges that ‘Shropshire must play its part in providing energy from renewable sources. We want to encourage renewable energy developments but we also need to conserve Shropshire’s high quality environment. Current Government guidance suggests we should develop criteria to enable low carbon and renewable energy development to proceed when there are no significant adverse effects on recognised environmental assets’. Relevant policies include:

- MD2 – Promoting sustainable design;
- MD7b – Managing development in the countryside (seeks to protect heritage, landscape and biodiversity assets);
- MD9 – Safeguarding and improving employment investment (includes seeking to protect existing employment sites in rural areas);
- MD12 – Protecting Shropshire’s natural environment;
- MD13 - Protecting Shropshire’s historic environment.

#### 10. RELEVANT PLANNING AND SITE HISTORY:

- NS/08/02077/ENQ Enquiry regarding development of land REC
- NS/78/00100/FUL Erection of agricultural workers dwelling. GRANT
- PREAPP/13/00485 Erection of a 1 mw Anaerobic digestion plant and associated infrastructure PREAIP 11th November 2013
- S/02/00318/FUL Erection of 11 KV overhead line supported on wooden poles APPRVD 27th June 2002
- 14/01398/MAW Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works GRANT 19th December 2014
- 15/00835/DIS Discharge of Condition 1 (a and b) and Condition 5 of Planning Permission 14/01398/MAW for the installation of Anaerobic Digester plant consisting of control building, feedstock / reception building, 30 m diameter digester, 30 m diameter digestate store, feedstock clamps and all associated works DISPAR 20th April 2015
- 15/02229/DIS Discharge of Conditions 15 (Complaints procedure), 17 (specifications and surface treatments), 21 (drainage), 22 (Secondary containment), 23 (surface water), 24 ( External lighting) and 26 ( Landscaping) of planning permission 14/01398/MAW. DISAPP 15th October 2015
- 15/02293/AMP A non-material amendment to previously granted 14/01398/MAW to amend the Site layout. GRANT 1st June 2015
- 16/00919/VAR Variation of Condition No.s 2 , 3 and 8 attached to Planning Permission 14/01398/MAW dated 19th December 2014 for installation of an anaerobic digestion plant WDN 15th September 2016
- PREAPP/16/00395 Proposed demolition of Broughall Fields Farmhouse and erection of replacement dwelling PREAIP 13th September 2016
- 16/04784/VAR Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site. Approved 30/03/17
- 17/03621/DIS Discharge of Conditions relating to Planning Permission 16/04784/VAR for the Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site. Part-Approved 19/03/18
- 18/00324/MAW Installation of additional infrastructure at an operational Anaerobic

## Digester (AD) site, and the installation of two digestate lagoons PDE

## 11. ADDITIONAL INFORMATION

11.1 Policies material to the determination of the application

In determining the Local Planning Authority gave consideration to the policies listed in section 10 of this report.

## 11.2 Link to application documents:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P2PRS1TDJ2600>

List of Background Papers: Planning application reference 18/02324/MAW and associated plans and documents
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member: Cllr Gerald Dakin (Whitchurch South)
Appendices: Appendix 1 – Conditions

**APPENDIX 1****Conditions**

## COMMENCEMENT OF DEVELOPMENT

- 1a. The development to which this planning permission relates shall commence within 3 years of the date of this permission.

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

## DEFINITION OF SITE AND DEVELOPMENT

2. This planning permission shall only relate to the area edged red on the approved location plan (drawing number SA28899\_PL\_01) hereinafter referred to as "the Site".

Reason: To define the area to which this planning permission relates.

3. Except as otherwise provided in the conditions attached to this permission the operations and uses hereby permitted shall be carried out strictly in accordance with the approved scheme comprising the application form dated 17<sup>th</sup> January 2018 and the accompanying documents and plans.

Reason: To define the permitted development.

## LOG DRYING OPERATIONS

4. Logs shall not be dried at the site other than in moveable containers. The number of containers used for log drying under the terms of this permission shall not exceed 6 per week.

Reason: To define the permission and to control vehicle movements in accordance with the approved scheme.

#### DIGESTATE LAGOONS

- 5a. Construction of the lagoons shall be to an appropriate quality assured standard and the lagoons shall be fitted with leak detection.
- b. The following details shall be submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the digestate lagoons:
- i. Details of a cover or floating cover to be used on the lagoons;
  - ii. Details of stock proof fencing to be provided around the lagoons.

Reason: In the interests of pollution prevention and safety.

#### LIGHTING

6. No additional fixed lighting shall be installed at the Site in connection with the development hereby approved unless the details of such lighting have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory standard of lighting for the development, balancing health and safety and security requirements with the visual amenity and ecological considerations and to minimise disturbance to bats, a European Protected Species.

#### ECOLOGY

7. No development shall take place (including demolition, ground works and vegetation clearance) until a supplementary landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- i. Planting plans, creation of wildlife habitats and features and ecological enhancements;
  - ii. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
  - iii. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
  - iv. Native species used are to be of local provenance (Shropshire or surrounding counties);
  - v. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
  - vi. Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

8. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- i. Description and evaluation of the features to be managed;
  - ii. Ecological trends and constraints on site that may influence management;
  - iii. Aims and objectives of management;
  - iv. Appropriate management options for achieving aims and objectives;
  - v. Prescriptions for management actions;
  - vi. Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
  - vii. Personnel responsible for implementation of the plan;
  - viii. Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
  - ix. Possible remedial/contingency measures triggered by monitoring;
  - x. The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

#### Informative Notes:

##### Ecology:

- i. Where it is intended to create semi-natural habitats (e.g. hedgerow / tree / shrub / wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.
- ii. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal, scrub removal, conversion, renovation and demolition work in buildings, or other suitable nesting habitat, should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only when there are no active nests present should work be allowed to commence. No clearance works can take place with 5m of an active nest. If during construction birds gain access to any of the buildings/vegetation and begin nesting, work must cease until the young birds have fledged.

- iii. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

### Highways

#### Works on, within or abutting the public highway

- iv. The planning permission does not authorise the applicant to:
- construct any means of access over the publicly maintained highway (footway or verge) or
  - carry out any works within the publicly maintained highway, or
  - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
  - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

#### Technical Approval/Discharge of Highway conditions

- v. Any works undertaken, prior to the appropriate Highway Agreement, Permit or Licence being formally completed, is done so at the developer's own risk, and there is no guarantee that these works will be deemed acceptable and subsequently adopted as highway maintainable at public expense, in the future. Please refer to the following informative notes for details of securing an appropriate highway approval and agreement.

#### Section 278 Agreement (Access works to the A525)

- vi. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND to progress the agreement.

#### Drainage details for Section 278

- vii. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Unless adequate storm water disposal arrangements can be provided, Shropshire Council, as Highway Authority, will be unable to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering details referred to in this conditional approval to: Highways Development

Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND at an early date to enable surface water disposal arrangements to be assessed.

Design of street lighting for Sections 278

- viii. The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the Highway Authority and their design shall include any necessary amendments to the existing system

Landscaping

- ix. Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure, appropriate root protection systems (to be approved) will need to be constructed in order to mitigate against any future root damage to roads, footways and services beneath. Also any other landscaping or planting adjacent to the future highway will require appropriate maintenance and service arrangements in order to maintain any required visibility splays and to keep leaf litter clear of footways and carriageways, etc., in the interests of highway safety.

Planning control

- x. With the sole exception of the development and operations approved under this permission all other development and operations at the site shall continue to be controlled under permission reference 16/04784/VAR.

Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

- xi. The authority worked with the applicant in a positive and pro-active manner in accordance with the advice of the Government's Chief Planning Officer. Further information has since been submitted in response to comments received during the planning consultation process. The submitted scheme, has allowed the identified planning issues to be satisfactorily addressed, subject to the recommended planning conditions.



### Habitat Regulation Assessment (HRA) Screening Matrix & *Appropriate Assessment Statement*

Application name and reference number:

18/00324/MAW  
Broughall Fields, Ash Road, Whitchurch, Shropshire, SY13 4DE  
Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons.

Date of completion for the HRA screening matrix:

6th July 2018

HRA screening matrix completed by:

Nicola Stone  
SC Planning Ecologist  
[Nicola.Stone@Shropshire.Gov.Uk](mailto:Nicola.Stone@Shropshire.Gov.Uk)

**Table 1: Details of project or plan**

Name of plan or project	Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons.
Name and description of Natura 2000 site	<p><b>Brown Moss SAC</b></p> <p>Brown Moss SAC and Midland Meres and Mosses Ramsar Phase 1 (32.02ha) is a series of pools set in heathland and woodland. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate. Brown Moss differs from other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. Annex II Species that are a primary reason for selection of site as an SAC:</p> <ul style="list-style-type: none"> <li>• Floating Water Plantain <i>Luronium natans</i></li> </ul> <p>Brown Moss is included within the Midland Meres and Mosses Ramsar Phase 1 for its Open water, Swamp, Fen and Basin Mire habitats with the plant species <i>Luronium natans</i>.</p>
Description of the plan or project	Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

#### Statement

The proposal is within close proximity to Brown Moss SAC/Ramsar. The proposal is for additional infrastructure within an operational AD site, and for two digestate lagoons on an adjacent field. Additional infrastructure at the site includes conversion of a digestate store to a digester, additional clamp space, the addition of a log drying area, the addition of a liquids buffer tank, and the addition of a tools storage container. This subordinate infrastructure is required to maximise operational efficiency at the site and to make use of renewable heat.

- The proposals will not increase feedstock throughput at the site
- Vehicle movements will not be increased as a result of this proposal
- The operations of this site will otherwise remain as present
- Provision of a floating cover for the digestate lagoon will ensure that any remaining emissions from the digestate will be contained (this must be conditioned on a planning decision notice).
- Construction of the lagoons will be to a quality assured standard and fitting of leak detection measures or other equivalent safeguards
- By having a second digester tank in place, it will work the current digester more efficiently and will maximise biogas capture. Ultimately this will result in a higher biogas yield off the same feedstock amount.
- The increase in digestate storage capacity in this location will allow greater flexibility in its release from the site and its application to fields.
- Permitted, implemented, and proposed landscaping measures on and around the AD site has the opportunity to enhance the site for biodiversity.

Providing the application is carried out as proposed, SC Ecology has not identified an effect pathway by which this proposal could impact Brown Moss SAC/Ramsar.

#### **The Significance test**

The proposed works under application 18/00324/MAW will not have a likely significant effect on Brown Moss SAC/Ramsar. An Appropriate Assessment is not required.

#### **The Integrity test**

The proposed works under application 18/00324/MAW will not have an impact on the integrity of Brown Moss SAC/Ramsar.

#### **Conclusions**

Please formally consult Natural England on this HRA matrix and take their comments into account prior to making a planning decision.



Committee and Date  
 North Planning Committee  
 24 July 2018

Item  
**6**  
 Public

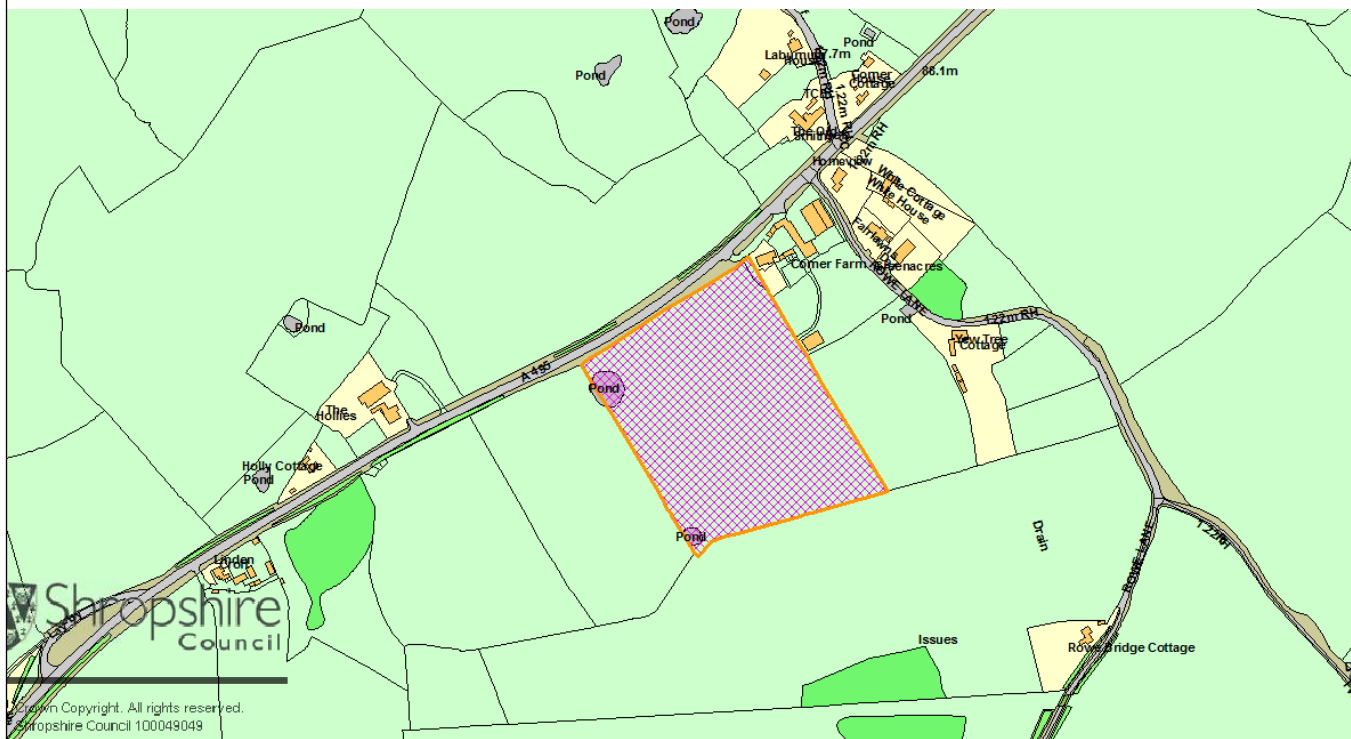
## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 18/01269/FUL	<b>Parish:</b>	Welshampton And Lyneal
<b>Proposal:</b> Extension to caravan and camping site to include change of use of land (re-submission)		
<b>Site Address:</b> Corner Farm Welshampton Ellesmere Shropshire SY12 0QA		
<b>Applicant:</b> Mr & Mrs R Edwards		
<b>Case Officer:</b> Philip Mullineux	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 344722 - 336110



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**Recommendation: Approval subject to the conditions as outlined in appendix 1 and delegated authority to the Head of Planning Services to amend any of the recommended conditions if considered necessary by the Head of Service.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application is made in 'full' and proposes an extension to a caravan and camping site to include change of use of land (re-submission) at Corner Farm Welshampton, Ellesmere, SY12 0QA. (The caravan and camping site referred to was approved subject to application reference 17/01768/FUL dated 18<sup>th</sup> September 2017 and to date no development on site has commenced in relation to this approval.
- 1.2 The application is accompanied by a set of existing and proposed elevation and floor plans, block plan, landscape and visual impact assessment which includes reference to historic impact, site location plan, design and access statement, planning statement, highways and drainage report, biodiversity survey and report, bat report, landscaping detail and supporting statement which outlines the existing business and the proposed farm diversification project in relationship to current planning policies. During the application processing period an amended site plan was received along with a 'supplementary planning document' which mainly outlined responses to issues raised by the Local Parish Council and members of the public in responses/comments to the application.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site, in accordance with detail on the application form, covers an area of 3.89 hectares and consists of an agricultural livestock grazing field located alongside an existing range of traditional farm buildings and farm land to the side/rear of the farmstead, which itself is used in connection to another farm holding in the applicants control. The site is located alongside the A495 which is the main highway between Ellesmere and Whitchurch. There is a lay-by arrangement to the front of the site which separates it slightly from the passing highway and allows vehicles to pull off the main road before entering into the site. The application site is located very close to the border between England and Wales which runs along the eastern boundary of the site.

- 2.2 The nearest significant settlement is Welshampton, the edge of which is around 900 metres to the south west. There is also the hamlet of Breaden Heath which comprises a sporadic collection of a small number of dwellings along a single road; this is a short distance away from the application site and mainly to the north of the A495.

- 2.3 A screening Opinion dated 15<sup>th</sup> June 2018 carried out in accordance with The Town and Country Planning (Environmental Impact Assessment Regulations), 2017 has established that the application does not require an Environmental Statement to accompany it for planning consideration.

The Screening Opinion establishes that the proposed development does fall into

- 2.4 the remit of Schedule 2 of the EIA legislation in Section 12: Tourism and Leisure (C) Holiday villages and hotel complexes outside urban area and associated developments = applicable threshold - the area of development exceeds 0.5 hectare.

The proposal is also considered to be relevant to Schedule 2: 12 (e) Permanent camp sites and caravan sites – Threshold is the area of the development exceeds 1 hectare.

- 2.5 However as detailed on the Council's Screening Opinion when assessed in accordance with Schedule 3 description of EIA Development it is considered that the development does not need to be subject to an Environmental Statement. .

### 3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 In consideration of the scale of the development in relation to the adjacent site as a whole, its location and concerns as raised by the Local Parish Council and local member, both the Chair and Vice have concluded that it is appropriate for this application to be presented to Committee for consideration.

### 4.0 **Community Representations**

- 4.1 **Welshampton and Lyneal Parish Council** have responded to the application indicating:

The Parish Council supported the original proposal as it is a development of an existing business. The emphasis of the original proposal was the re-use of agricultural buildings which visually contribute to the character and appearance of the area. The small caravan site to the rear of the farm shop and tourist destination was considered subordinate to the shop and cafe. However, the Parish Council is concerned that prior to any work commencing on site a further application to expand the caravan and camping element has been submitted. It is questionable that had the combined applications been considered as one application the same support would have been forthcoming.

#### Initial Concerns

##### Drainage

The Parish Council is concerned what impact the number of pitches will have on drainage. Over the last year, the Parish Council has consulted with Shropshire Council, Shropshire Wildlife, Environment Agency and Welsh Water regarding the concerns of drainage in Welshampton and local area. The results have helped inform the Parish Council's decision that the Parish will now be classed as 'countryside' following the Local Plan Review. The impact of the additional pitches should be fully investigated.

##### Washroom facilities

There appears to be no corresponding increase in washroom facilities or chemical closet. If the same size chemical closet is proposed will this necessitate more tanker visits?

#### Sustainable development

The Planning Officer's report for application 17/01768/FUL states in paragraph 6.2.14 "It is acknowledged that the application site is not part of a hub or cluster settlement it does however form part of a loose knit hamlet of Breaden Heath and the site itself is not in a completely isolated location. It is also located only a short distance to Welshampton which is 0.9 miles away

and there is a public house and access to the bus service into Oswestry. The fact that there is not immediate access to public transport direct from the site and that there is no roadside pavement leading to Welshampton does weigh negatively against the scheme in the planning balance."

The bus service referred is a very limited service timed for commuting to work and is not 'tourist friendly'. Does the increase in the number of pitches increase the weight against the proposal?

#### Scale

The Planning Officer's report for application 17/01768/FUL refers to the development as relatively small scale (6.5.3). However, the extension will more than double the size of the development. The Council questions whether the initial application would have been approved if the full scale of the proposal was known. The cumulative impact should be considered.

#### Financial Viability

The Council understands the reason for this proposal is to meet grant criteria. There has been no business plan submitted with the application as far as the Parish Council is aware. The Parish Council questions the financial viability of the whole proposal if it is now reliant on grant funding.

The Parish Council requests Shropshire Council review the business plan.

#### Conclusion

The Parish Council is concerned with this application. It questions whether this is a sustainable development as defined by the NPPF. The extension will fundamentally change the nature of the business. The Council also questions the financial viability of the proposal.

The Parish Council respectfully requests Shropshire Council to decline this planning application.

Should the Planning Officer not concur with the Parish Council's opinion, the Parish Council requests the application is referred to the Planning Committee.

## 4.2 Consultee Comments

#### 4.3 **SC Highways** have responded to the application indicating:

The development proposes an extension to an approved caravan and camping site in addition to the previously permitted site which also included the conversion of a number of agricultural buildings to form a farm shop, café/restaurant, a unit of residential accommodation, a visitor/learning centre and shower/toilet facilities under planning permission 17/01768/FUL. The current submission also follows the withdrawal of the earlier application 17/05647/FUL.

The development is rather loosely described in the Design and Access Statement and indicated on the Proposed Site and Landscaping Plan (Drawing No. 1696 D 500). The proposed extension to the site is to utilise the improved access arrangement, indicatively shown on the approved Drawing No. CF-AP-400 under 17/01768/FUL.

The current proposal from the plan would appear to indicate an additional 15 touring caravan and 24 tent pitches to the 19 'touring camping units' already approved.

The supporting statement has not described the proposed development in detail and no traffic information has been included to support the broad and generalised statement 'given the modest increase in traffic generated by this proposal it is considered that the completed development will not generate significant amounts of traffic movement'. The increase in traffic movements are however anticipated to be from the additional pitches with other vehicle movements associated with the development and facilities already approved.

Whilst the principle of the development is acceptable, from information currently available it would appear that no application to discharge highway related pre-commencement conditions for the access arrangements under 17/01768/FUL has been submitted and determined. In view of the nature and speed of traffic on the A495 it is considered that these detailed access design and associated works should be secured prior to a further extension to the camping site is considered.

Informative Notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

#### Technical Approval/Discharge of Highway conditions

This highway advice relates to the requirements of fulfilling the planning process only. In no way does the acceptance of these details constitute or infer specific "technical approval" of any changes to the existing public highway or any new infrastructure proposed for adoption by Shropshire Council. Any works undertaken, prior to the appropriate Highway Agreement, Permit or Licence being formally completed, is done so at the developer's own risk, and there is no guarantee that these works will be deemed acceptable and subsequently adopted as highway maintainable at public expense, in the future. Please refer to the following informative notes for details of securing an appropriate highway approval and agreement.

#### Section 184 Licence or Section 278 Agreement

No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an appropriate agreement under the Highways Act 1980 entered into.

Please contact: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND to progress the agreement.

**SC Land Drainage** has responded to the application indicating the drainage proposals in the FRA are acceptable.

**SC Planning Ecology** have responded indicating:

Conditions and informatives are recommended.

4.4 An Extended Phase One Habitat Survey was carried out on this site in November 2017 by Arbor Vitae Environment. This updated previous surveys (covering this site and the adjacent site) by Arbor Vitae in July 2015.

4.5 Habitats

Habitats on the site consist of improved grassland, native species hedgerows and ponds.



All of the hedgerows are proposed for retention.

‘Two extensive areas of woodland are planned, linking with existing hedgerows. These will incorporate a range of native tree species with an understorey and fringe of native shrubs. The aim of these areas is to create dense and undisturbed areas of woodland which will be retained as non-intervention areas providing shelter, cover, food and breeding sites for invertebrates, small mammals and birds.’

‘In order to create future landscape features across the site and also to provide privacy for the caravan plots, a number of smaller blocks of trees and shrubs, along with scattered individual trees (and groups), will be planted across the site.’

‘All boundary hedgerows are to be allowed to increase in height to at least 2.5 metres. Biennial cutting will be carried out in such a way as to encourage an Ashaped profile which has been shown to be preferred by many bird species. Leggy, unmanaged lengths will be coppiced and the gaps infilled with a native hedgerow mixture of hawthorn, blackthorn, hazel and field maple.’

‘The existing pond will be extended to approximately double its current size, incorporating a wide shallow area on one edge in which marginal aquatic plants will be introduced to create a swamp habitat. Excavated soil will be used to create a low embankment on the roadside portion of the field on which one of the woodland blocks will be planted. Some soil will be used to create a small mound/cliff on one edge of the pond into which an artificial kingfisher burrow will be installed to attract this species to nest. The pond will be over-excavated in one place to allow a pond dipping platform to be constructed above it. This will allow access to deeper water for children to safely pond dip.’

‘A former pond (Pond 2) will be recreated by removal of soil and silt in the existing pond basins. Ground water levels are thought to be high in this area and it is anticipated that the pond will fill from this source.’

‘Although some grassland areas will require regular maintenance to achieve a short, neat sward, there is an opportunity to allow other fringe areas to [develop] as taller grassland habitats with higher species diversity. This may necessitate removing a shallow layer of topsoil in these areas in order to allow seeding into poorer subsoil where nutrient levels are lower. This will allow a greater diversity of species to thrive.’

Hibernacula and refugia should also be created around the ponds.

These elements should be covered in a Habitat Management Plan.

Great crested newts

There are two mapped ponds on the site, one near the north-western corner of the site (Pond 1) and one in the south-east corner of the site (Pond 2).

‘Pond 1 is heavily used by cattle, meaning the water is extremely turbid and water quality is very poor. There were very few emergent plants within the pond and the banks have collapsed into the water.’ A Habitat Suitability Index (HSI) assessment calculated the pond as having ‘Poor’ suitability to support great crested newts.

‘Pond 2 did not contain water and thus no HSI score was calculated. Pond 2 has evidently been dry throughout the summer. Although containing water during the winter, this pond regularly dries out in spring and probably does not represent a viable breeding site for GCN.’

No further consideration of great crested newts is therefore required.

The proposed habitat enhancements will greatly increase the value of the site for great crested newts and other amphibians.

#### Bats

There are no potential roosting opportunities on the site, although bats may use the site for foraging and commuting.

The lighting scheme for the site should be sensitive to bats (and other wildlife) and follow the Bat Conservation Trust’s guidance. Illumination of the hedgerows, ponds and new planting should be avoided.

Arbor Vitae recommend that 3 bat boxes are ‘erected on nearby trees’ to provide potential roosting opportunities. This should be included in the Habitat Management Plan.

The proposed habitat enhancements will greatly increase the value of the site for bats.

#### Birds

The trees and hedgerows provide potential nesting opportunities for birds.

If any vegetation removal is required, this should take place between September and February to avoid harming nesting birds. If this is not possible then a pre-commencement check must be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

Arbor Vitae recommend that a range of bird boxes are ‘erected on nearby trees’ to provide additional nesting opportunities. This should be included in the Habitat

Management Plan.

Other species

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

The following working methods should be followed to protect common amphibians, reptiles, small mammals etc. that may enter the site during the works:

- Removal of potential refugia should be carried out by hand between March and October when the weather is warm.
- Vegetation clearance should take place in stages to allow animals time to move away from the site.
- The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.
- Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.
- Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.
- Any common reptiles or amphibians discovered should be allowed to naturally disperse.
- If a hibernating hedgehog is found on the site then it should be covered over with a cardboard box and a suitably qualified ecologist contacted for advice.
- If a great crested newt is discovered at any stage then all work must immediately halt and a suitably qualified ecologist contacted for advice.

The proposed habitat enhancements will greatly increase the value of the site for wildlife.

Conditions and informatives

The following conditions and informatives are recommended for inclusion on the decision notice:

Construction Environmental Management Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented and where ecological enhancements (e.g. hibernacula,

integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots) will be installed or implemented;

- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- f) Identification of Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
  - vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

#### Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

#### Nesting birds informative

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

**SC Conservation** have responded with no objections indicating:

The proposed development site is located c.410m south-east of the Grade II listed building of Old Hall Farmhouse (NHLE ref. 1366567), and c.420m south-east of the Grade II listed building of cowhouse approximately 20m north east of Old Hall Farmhouse (NHLE ref. 1307583). It is also located immediately south-west of the farm house and traditional farm buildings at Corner Farm, which are considered to be non-designated heritage assets, and adjacent to the caravan camping site approved under planning permission ref. 17/01768/FUL.

Policy Background to Recommendation:

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS5 Countryside and Green Belt, CS6 Sustainable Design and Development and CS17 Environmental Networks, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published March 2012.

Given their date, association and group value, the farm house and traditional farm buildings at Corner Farm are considered non-designated heritage assets, as defined in annex 2 of the NPPF. Paragraph 135 of the NPPF and local policy MD13 are therefore relevant in this regard along with SC Core Strategy policies CS5, CS6 and CS17, SC SAMDEV policies MD2 (Sustainable Design) and MD7a (Managing Housing Development in the countryside) and national policies and guidance including Section 12 of the National Planning Policy Framework (NPPF), published March 2012.

**RECOMMENDATION:**

No objection is raised to the application as submitted as it is considered that the

application is accordance with the above local and national policies.

In considering this application special regard has been given to the desirability of preserving the setting of any designated heritage assets under section 66 (1) of the above Act. It is consider there will be no harm caused to any designated heritage assets as a result of this application.

#### 4.6 **Public Comments**

Two letters of objection have been received from households /on behalf of members of the public. Key planning issues raised can be summarised as follows:

- Concerns about whether the Council can make an informed decision based on the information as submitted in support of the application.
- Sustainability of the proposal with consideration to location, impact and no justification for the need for expansion and benefits of it.
- Detrimental landscape and visual impact as a result of the proposal.
- Transport issues and sustainability and Impacts of proposal on surrounding public highways and in particular Rowe Lane.
- Limited economic and social benefits which do not outweigh the negative impacts.

Twelve letters of support have been received which mainly indicate support for the principle of the development, considering development as proposed sustainable in relation to the surrounding rural area.

#### 5.0 **THE MAIN ISSUES**

- Principle of development
- Environmental Impact Assessment
- Siting, scale and design of structure
- Visual impact and landscaping
- Impact on the surrounding historic environment.
- Access and Highway safety.
- Residential amenity
- Ecological issues.
- Drainage.

#### 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. The NPPF in paragraph 28 on Supporting a prosperous rural economy indicates a positive approach to sustainable new development in order to promote a strong rural economy with support for the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and promote the development and diversification of agriculture and other land based rural businesses with support for sustainable rural tourism and leisure developments that benefit businesses in rural areas.

6.1.3 Policy MD11 in the SAMDev indicates support for tourism, leisure and recreational development proposals that require a countryside location where the proposal complements the character and qualities of the site's immediate surroundings and meets the requirements set out in Policies CS5, CS16, MD7b, MD12, MD13 and relevant local and national guidance. Policy MD11 further states that proposals for new and extended touring caravan and camping sites should have regard to the cumulative impact of visitor accommodation on the natural and historic assets of the area, road network, or over intensification of the site.

6.1.4 The application site consists of a relatively flat field located alongside the western side of an existing farmstead which comprises a number of different farm buildings, located alongside the main farm house which has been recently renovated and is occupied. This farmstead and land located adjacent to the rear of the farmstead has planning approval, (reference 17/01768/FUL dated 18th September 2017 for Conversion of part of the range of traditional agricultural buildings to form a farm shop with a cafe/restaurant, a visitor centre and a caravan park with washroom facilities, associated drainage and access and conversion of part of the range of traditional agricultural buildings to be converted to form a single dwelling. The caravan park element of the approval was in relation to the stationing of 19 static touring caravans and motorhomes on site. The approved plans indicate that the caravans would be pitched across the site at a low density, and accessed by a central roadway. The camping pitches to be equipped accordingly with electrical hook-ups and other necessary facilities. Toilet and shower facilities provided in a nearby existing building converted specifically for this purpose. Condition number 19 attached to the decision notice, (reference: 17/01768/FUL dated 18th September 2017), restricts the touring camping units to 19 on site, (Caravan/motorhomes) in order to ensure a satisfactory intensity of development for the area of land that was



subject to the caravan/motor homes and in order that the a Local Planning Authority can control density on site. (This number was in accordance with detail as set out on the submitted plans which it was considered did indicate an acceptable level for the amount of land subject to the change of use and is considered a low density lay out).

6.1.5 The current application in accordance with the site plan submitted in support of the application proposes 40 more pitches, (15 for caravan/motorhomes and 25 for camping), similar in nature to the previous scheme and so will bring the total amount of pitches on site in connection to the proposed business to 59. Again low density in layout .(There appears to be some confusion on amount of units proposed – objectors comments – the site plan submitted in support of the application being the definitive answer).

6.1.6

The applicants are well established farmers who wish to diversify their existing rural business in order to general a form of income not so reliant on the agricultural sector, whilst it is acknowledged that the development subject to the previous approval in relation to the proposed diversification project is yet to commence on site, additional information in support of the application indicates that the proposal has been subject to details research and evaluation and that the proposed extension to the approved site, will make the proposal more economically sustainable and offers low density camping pitches in keeping with the surrounding environment, and that this is an expanding sector within the holiday and leisure industry. The further information also indicates that the project is subject to grant funding from a fund available to farmers in order to assist them in diversification projects such as rural tourism, and in order to secure this, the proposal has been subject to detailed analysis and consideration.

6.1.7 The proposal therefore is to compliment as part of the approved scheme covering the land to the rear of the farmstead on which planning approval exists for touring caravans and motorhomes only, as it is not intended that static caravan would be positioned on the site. The overall scheme is limited to ground adjacent to the existing farmstead. The plans provided show that the caravans would be pitched across the site at a low density. The site plan shows that there would be a total of 59 camping units on the site and these would be accessed by central roadways. The camping pitches will be equipped accordingly with electrical hook-ups and other necessary facilities. This also includes the conversion of one of the existing barns in the main farm complex to provide toilet and shower facilities for those staying on the site.

6.1.8 Policy CS5 of the Core Strategy reflects the objectives of the NPPF by aiming to strictly control new development in countryside locations. Like the NPPF it does support the principle of development on appropriate sites that will maintain and enhance countryside vitality and character to improve their sustainability. In particular where they bring economic and community benefits; this includes small-scale economic development such as the proposal subject to this application, (low density of the units as proposed), which specifically refers to farm diversification schemes.

- 6.1.9 Policy CS5 also indicates that applicants will be required to demonstrate “the need and benefit for the development”. Officers are of the opinion that there is only a limited supply of tourist accommodation locally. An increased provision of tourist accommodation it is considered will encourage more visitors to the area and help support the local economy with the spending power that tourist possess. There will also be job opportunities created directly by the development in the shop, staffing and maintenance of the camp site and also indirectly at other tourist attractions/ services locally that may also may benefit from the increase in tourism. Information in support of the previous approved application indicated that the proposed farm shop had support locally of residents in nearby settlements who feel that they would use the farm shop on occasions as it would be more convenient for them to travel to and avoid the need to travel to Ellesmere or Whitchurch which are 4.7 or 8.1 miles away from the site respectively.
- 6.1.10 The proposed development is in connection to development that will utilise existing former agricultural buildings that contribute towards the character of the countryside location but are no longer considered suitable for modern farming methods. Policy CS5 supports the conversion of rural buildings which take account of and make a positive contribution to the character of the buildings and the countryside. The policy gives equal priority to a number of uses which includes, “small scale economic development/employment generating use, including live-work proposals and tourism uses”.
- 6.1.11 The Core Strategy recognises that some tourism uses require a countryside location and this would include developments associated with agriculture and agricultural diversification and camping where part of the site’s attraction can be the intrinsic beauty of the surrounding Shropshire Countryside. Development in such locations must complement the character and qualities of the site’s immediate surroundings, and meet the requirements of Policies CS5, CS16, CS17, MD7b, MD12, MD13 and relevant local and national guidance. It goes on to state that all proposals should be well screened and sited to mitigate the impact on the visual quality of the area through the use of natural on-site features, site layout and design. Specifically relating to touring caravan and camping sites it states that there should be regard to the cumulative impact of visitor accommodation on the natural and historic assets of the area, road network, or over intensification of the site. In this instance the site is proven to be a low density and the area is not being over burdened by campsites with so few others currently available locally. Consideration has also been given to cumulative impacts with the approved 19 mobile/motor unit pitches alongside the site and it is considered that 59 units as proposed as a whole, with consideration to their density and further landscape mitigation is acceptable in principle in respect of landscape and visual impact.
- 6.1.12 It is acknowledged that the application site is not part of a hub or cluster settlement it does however form part of a loose knit hamlet of Breaden Heath and the site itself is not in a completely isolated location. It is also located only a short distance to Welshampton which is 0.9 miles away and there is a public house and access to the bus service into Oswestry. The fact that there is not immediate access to public transport direct from the site and that there is no roadside pavement leading to Welshampton does weigh negatively against the scheme in the planning balance.

## 6.1.13

As such the creation of a low density caravan site to compliment the existing approved scheme alongside, is considered acceptable in principle, and will provide economic benefits, and will assist the effective reuse of the traditional buildings which make a positive contribution towards the character and appearance of its rural setting and these will outweigh the harm caused by the lack of access to alternative forms of transport. Although it is also noted that the site is located alongside the A495 highway and as such overall the principle of the proposed development on balance is considered an appropriate form of farm diversification with consideration to its location.

6.2 **Environmental Impact Assessment.**

6.2.1 As indicated earlier in this report the proposed development has been considered in accordance with The Town and Country Planning (Environmental Impact Assessment), Regulations 2017 to which it was established that the proposed development falls into Schedule 2 of the EIA legislation : Section 12: Tourism and Leisure (C) Holiday villages and hotel complexes outside urban area and associated developments = applicable threshold - the area of development exceeds 0.5 hectare and Schedule 2 : 12 (e) Permanent camp sites and caravan sites – Threshold is the area of the development exceeds 1 hectare.

6.2.2 As such the Council has carried out a Screening Opinion in accordance with EIA Regulations and this establishes that an Environmental Statement is not required to accompany any formal application for the proposed development, when considering the proposal against the criteria of Schedule 3 of the Regulations 2017.

6.3 **Siting, scale and design.**

6.3.1 Policy CS5 'Countryside and Green Belt and Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy encourages development that improves the sustainability of rural communities whilst requiring 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. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

6.3.2 In addition SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.

6.3.3 Policy CS17 'Environmental Networks' states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets and does not adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.

6.3.4 Also, SAMDev Policy MD13: The Historic Environment states that in accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored.

6.3.5 The existing building complex comprises of various sections that were added during its evolution as a farmstead. Most of the buildings are traditional, single and two-storey buildings arranged around a central yard area. Some of the buildings also include elements of timber boarding. The farm complex is on the whole an attractive group of buildings that make a positive contribution towards the character and appearance of the locality and are clearly visible from the passing highway. These buildings have planning approval as part of the previous approved application for conversion in relation to the overall farm diversification scheme envisaged by the applicants.

6.3.6 It is considered that the proposed extension to the caravan and camping section of the approved scheme that is the subject of this application is acceptable in scale and design and therefore in accordance with relevant local and national planning policies on this aspect..

#### 6.4 **Visual Impact and landscaping**

6.4.1 Policy in relation to visual impact and landscaping is similar to those discussed in the proceeding section. The applicants have included in support of the application a Landscape and Visual Impact Assessment, (LVIA), (Revised from the previous submission in support of the application subsequently approved), and this has concluded that other than for walkers on the short (250m) section of footpath through the proposed development site in the short to medium-term, the proposed development would not result in any significant adverse additional or combined effects on landscape character or visual amenity during the construction and operational phases of the development and, in combination with the permitted development, there would be some long-term beneficial effects to the character of the site and surrounding landscapes as a consequence of the permitted renovations of the farm buildings and the permitted and proposed biodiversity and landscape enhancement proposals.

6.4.2 Officers have assessed the applicants LVIA and concluded that the landscape and visual impact assessment has been carried out in an appropriate manner, and, given the robustness of the methodology and the application of that methodology, its findings can be supported. It is considered that the principles of the landscape

mitigation proposals are sound, however in order to ensure landscape works as envisaged are carried out, it is recommended that detailed landscape proposals are submitted or conditioned if mindful to approve the application.

#### 6.4.3

In conclusion in respect of landscape and visual impact the development as proposed in relation to density and scale is relatively small scale, (40 pitches in accordance with detail as set out on the block plan in support of the application), and the caravan layout is acceptable with consideration to the surrounding land topography, existing vegetation and further mitigation as proposed and with a condition attached to any approval notice issued in respect of further landscape mitigation as recommended by the Council's Planning Ecologist. There are also the economic benefits as a result of the proposal which will contribute towards the long term benefits of the mainly agricultural business concerned as well as that of the wider area in which the site is located, the site being located alongside a suitably public highway considered acceptable in relation to the proposal and the site located within reasonable distance of day to day service requirements and the nearby town of Ellesmere and all its facilities. Cumulative impacts with other similar type developments within the surrounding area (including that as permitted adjacent to the site), have been considered and it is considered that this matter is not a concern in relation to this application. As such the conclusions reached in the LVIA are accepted and overall on landscape and visual impact issues, the proposal is considered to be in accordance with Policies CS5, CS6, CS13, CS16 and CS17 of the Core Strategy and Policies MD2, MD7b, MD11, MD12 and MD13 of the SAMDev and the overall aims and objectives of the NPPF.

#### 6.5

##### **Impact on surrounding historic environment.**

#### 6.5.1

In accordance with the Planning (Listed Buildings and Conservation Area Act 1990, local planning authorities must in the exercising of its planning functions have special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest which it possesses.

#### 6.5.2

Paragraph 131 of the NPPF indicates that when determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 134 of the NPPF indicates where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 135 of the NPPF refers to the effect of an application on a non-designated heritage asset which should be taken into account in determining the application and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

#### 6.5.3

The applicants as part of their Landscape and Visual Impact Assessment have a section in relation to 'Heritage Assets'. This is considered acceptable as in this instance with consideration to the surrounding historic environment and impacts it is considered that an Historic Impact Assessment is not required and that this matter can be addressed as part of the overall Landscape and Visual Impact

Assessment, as landscape and visual impact are considered much more of an issue. The LVIA in consideration of impacts on the historic environment concludes that:

*The proposed development would not have any direct or indirect residual effects on the settings or significance of the two Grade II listed buildings considered in this assessment – Old Hall Farmhouse and the Cowhouse at Old Hall Farm.*

*The proposed development would be within the immediate setting of Corner Farm and the presence of the caravan and camping site would result in a slight additional adverse effect and a moderate/slight combined adverse effect on the significance of this non-designated heritage asset. However, these would be much less than substantial harm.*

*The proposed development would not have any direct effects on the significance of Yew Tree Cottage. It would result in a negligible indirect additional adverse effect and a slight/negligible indirect combined adverse effect on the immediate setting of the cottage and its significance and the indirect effects on the wider setting of this cottage would result in a negligible additional adverse effect and a slight/negligible combined adverse effect on the significance of this non-designated heritage asset. These would be much less than substantial harm.*

*The proposed development would not have any direct or indirect residual effects on the settings or significance of White House and White Cottage, the two non-designated assets just over the border in Wales.*

#### 6.5.4

It is noted in relation to the previous application adjacent to the site, subsequently approved by the Council, in relation to an appeal to the Secretary of State with regards to the Council's conclusions in relation to an Environmental Impact Assessment screening exercise the Secretary of State consulted with Historic England on whether there was need for the application to be accompanied by an Environmental Statement and that on this matter it was concluded that the nearest heritage assets are grade II listed and not within Historic England's remit for involvement.

#### 6.5.5

Whilst the previous application included proposals for conversion of existing farm buildings it also included provision for a caravan park which was in the immediate setting of Corner Farm and it was accepted that the presence of the caravan park would result in a moderate/slight adverse effect on the significance of this non-designated heritage asset. However, this harm would be much less than substantial. The current application is considered low key in scale with landscape mitigation which will mitigate the development into its setting.

#### 6.5.6

The proposed development will not have any direct effects on the significance of Yew Tree Cottage and the indirect effects on the immediate and wider setting of this cottage, as a consequence of the caravan park, it would result in a negligible adverse effect on the significance of this non-designated heritage asset.

## 6.5.7

The proposed development would not have any direct or indirect residual effects on the settings or significance of White House and White Cottage, the two non-designated assets just over the border in Wales.

## 6.5.8

The adjacent farmstead complex is considered a non-designated heritage asset in that it represents a traditional farmstead that has been granted planning permission for an alternative use, albeit as part of the diversification of an existing agricultural business. Within 388 metres of the site in a northerly direction is the site and setting of a farmstead, (Old Hall Farm), which contains a grade II listed farmhouse and grade II listed farm buildings as part of its traditional farmstead. This farmstead is also not a functioning working farm in its own right and the dwelling itself as well as its domestic curtilage has been subject to substantial refurbishment/reconstruction.

## 6.5.9

It is considered that the proposed addition to the approved caravan park is on balance acceptable with consideration to impacts on the immediate as well as the wider historic environment and with conditions attached to any approval notice subsequently issued, the development is acceptable in relationship to surrounding heritage assets. This includes consideration to the distance and surrounding land topography, the setting of the grade II listed Old Hall Farm House and its listed buildings. It is noted that the Council's Conservation Manager in response to the application indicates there will be no harm caused to any designated heritage assets as a result of this application.

## 6.5.10

As such on historic issues the proposed development is considered acceptable and in accordance with Policy CS17 of the Shropshire Core Strategy, Policy MD13 of the SAMDev and national legislation and policy as discussed in this section of the report

## 6.6 Access and Highway Safety

## 6.6.1

Policy CS6 of the Core Strategy requires development to be inclusive and accessible. The application site is located alongside the A495 which passes between Ellesmere and Whitchurch. This is a busy primary route although it is acknowledged that it does not benefit from any public transport route, instead anyone visiting the site or going out on days from the campsite would be most likely to make use of a private car. There are some limited opportunities for cycling but these are along the surrounding country lanes for recreational purposes or walking the network of footpath and bridleways, including a footpath through the site. This does weigh negatively when considering accessibility of the site.

## 6.6.2

The access into the site is from an existing access that is just off an informal layby which separates it from the passing highway. This same access will provide vehicular access to private parking for the farmhouse and the drive will then continue past the house leading to the formal farm shop parking area and on towards the caravan/camping site. The existing vehicle access which leads into the farmyard will be sealed up permanently. All traffic will enter and leave to the site

from the main road.

- 6.6.3 The proposed use will inevitably result in an increase in vehicle movement to and from the site. The historic use of the site which would have involved the movement of large agricultural vehicles would be mostly replaced with cars and cars towing caravans. The scale of the application in terms of the size as well as that of the previously approved scheme is not considered to be of such a scale where it would generate large numbers of vehicle movements to and from the site. It is likely that the peak of movements would be during the weekends and during the peak seasons as people visit the site or to stay for longer on the campsite.
- 6.6.4 The proposed use is modest in scale and it is not considered that it would generate so many movement where there would begin to be an impact on the free flow of traffic on the A495. It is considered that there is sufficient space within the site to allow cars to park within the site and for caravans to enter and leave the site. Impacts on highway matters in relation to surrounding residential amenity considered acceptable. Whilst objections on behalf of members of the public on highway issues are noted, it is also noted that the proposed development is in relation to users of a site that will bring a caravan /camper van with them to the site and therefore a type of development that will by its nature be heavily reliant on private means of transport, as the proposed development is not in relation to permanent caravans on site.
- 6.6.5 On highway grounds with consideration to the fact that the site is located alongside an 'A' class public highway, the proposed development is considered acceptable and in accordance with relevant local and national planning policy on highway and transportation matters. Whilst the SC Highways response is noted, (which indicates that traffic movements overall will not be significant given the location), conditions on highway matters attached to the previous approval notice issued for development adjacent to the site with regards to internal road and parking layout and engineering details are considered appropriate in this instance also. (Further consultation with the SC Highways Manager has confirmed that this is considered reasonable given the location and expected vehicle movements).

## 6.7 **Impact on Neighbours**

- 6.7.1 The proposed change of use from an agricultural use to a leisure use will result in a change in the type and the level of activity on the site. Whilst the number of vehicle movements will increase the type of movements will change from the manoeuvrings of heavy agricultural machinery to mostly domestic cars with caravans attached. It is also likely that there would not be the level of noisy activities during the early and late hours that are commonly associated with agricultural operations.
- 6.7.2 The neighbours most closely affected by the proposed development are those to the eastern side of Rowe Lane and the one dwelling to the south which immediately adjoins the edge of the application site. A number of these dwelling have clear views towards the application site and are only a short distance from it.



## 6.7.3

The access arrangements will ensure that all vehicles enter and leave the site at the point furthest from the neighbour's dwellings. The only vehicle movements close to the neighbours would be those within the site as visitors are manoeuvring into and out of parking spaces or finding their way to/ from the camping pitches. The vehicles speeds would be low and therefore the level of disturbance from cars would also be low and not likely to impact on the amenities of neighbours.

## 6.7.4

The neighbours that are on Rowe Lane have views directly across the area to be used for the caravan site, the boundary nearest these dwellings is defined by a native hedgerow, this hedgerow could be allowed to grow and with appropriate management can be used to increase the level of screening from Rowe Lane. This was a matter subject to the previous application subsequently approved and will be subject to landscaping and conditions attached to the approval notice.

## 6.7.5

The submitted plans show that extra landscaping and planting will be provided throughout the site both to create an attractive place for those visiting but also to minimise the visual impact of the caravans on the surrounding landscape and also to act as a buffer from the proposed use of the site. The farmstead site does already benefit from existing trees and hedges both around its perimeter, the submission of an appropriate landscaping scheme will ensure that this is enhanced where possible.

## 6.7.6

It is considered that the nature of the proposal and associated site uses it is unlikely that there would be significant levels of noise and disturbance to neighbours. The cars moving would cause some noise but it is considered that this would not be to such a level where it would detrimentally impact upon the amenities of the neighbouring occupiers. The increase in any vehicles using the highway is likely to be absorbed into the existing traffic flow without causing extra noise or nuisance that would be detrimental to neighbours.

## 6.7.7

There are other dwellings further away from the site who may be able to see any change in activity on the site, however they would be far enough away to not experience any detrimental impact upon their residential amenities.

## 6.7.8

Whilst it is acknowledged that there are public rights of ways within the area and that there will be a visual impact in relation to users of the public footpath, it is not considered that these footpaths will be obstructed, and any change visually will be short-lived, as a result of the proposed development, as such impacts on these is considered acceptable.

## 6.7.9

The proposed development is considered acceptable and in accordance with Policy CS6 of the Shropshire Core Strategy, and the NPPF in relation to residential amenity issues as well as issues in relation to the public footpaths.

## 6.8

**Ecological issues**

- 6.8.1 Accompanying the application is a biodiversity survey and report, these have been considered by the Council's Ecologist as part of the application determination process as being acceptable. (An Extended Phase One Habitat Survey was carried out on this site in November 2017 by Arbor Vitae Environment).
- 6.8.2 The area surrounding the development site is dominated by large, open, arable/grassland fields and smaller grasslands. Woodland in the immediate area is scarce although there are a number of small parcels of woodland 1km south of the site.
- 6.8.3 The ecology survey carried out confirms that the proposed development will have no adverse impact on any protected species.
- 6.8.4 The Council's Ecologist has raised no objection to the scheme subject to the imposition of planning conditions on any decision notice issued in relation to a construction environmental management plan and external lighting plan. Informatives are recommended in relation to nesting birds and wildlife protection. The response indicates that existing habitats on the site consist of improved grassland, native species hedgerows and ponds. The application indicates that all of the hedgerows are proposed for retention.
- 6.8.5 The application proposes two extensive areas of woodland, linking with existing hedgerows. These will incorporate a range of native tree species with an understorey and fringe of native shrubs. The aim of these areas is to create dense and undisturbed areas of woodland which will be retained as non-intervention areas providing shelter, cover, food and breeding sites for invertebrates, small mammals and birds. Detail in support of the application also indicates that in order to create future landscape features across the site and also to provide privacy for the caravan plots, a number of smaller blocks of trees and shrubs, along with scattered individual trees (and groups), will be planted across the site. All boundary hedgerows are to be allowed to increase in height to at least 2.5 metres. Biennial cutting will be carried out in such a way as to encourage an Ashaped profile which has been shown to be preferred by many bird species. Leggy, unmanaged lengths will be coppiced and the gaps infilled with a native hedgerow mixture of hawthorn, blackthorn, hazel and field maple. The existing pond will be extended to approximately double its current size, incorporating a wide shallow area on one edge in which marginal aquatic plants will be introduced to create a swamp habitat. Excavated soil will be used to create a low embankment on the roadside portion of the field on which one of the woodland blocks will be planted. Some soil will be used to create a small mound/cliff on one edge of the pond into which an artificial kingfisher burrow will be installed to attract this species to nest. The pond will be over-excavated in one place to allow a pond dipping platform to be constructed above it. This will allow access to deeper water for children to safely pond dip. A former pond (Pond 2) will be recreated by removal of soil and silt in the existing pond basins. Ground water levels are thought to be high in this area and it is anticipated that the pond will fill from this source. Although some grassland areas will require regular maintenance to achieve a short, neat sward, there is an opportunity to allow other fringe areas to develop as taller grassland habitats with higher species diversity. This may necessitate removing a shallow layer of topsoil in

these areas in order to allow seeding into poorer subsoil where nutrient levels are lower. This will allow a greater diversity of species to thrive.

#### 6.8.6

Clearly the application proposes extensive ecological enhancement which is to be welcomed. This will also serve to assist in relation to landscape and visual impact, assisting in integrating the development into the surrounding countryside whilst also assisting in providing privacy and amenity to occupiers of caravan spaces on site and also assisting in relation to the amenity of the surrounding landscape.

#### 6.8.7

With consideration to the above-mentioned, the proposed development is considered acceptable and in accordance with Policies CS5 and CS17 of the Shropshire Core Strategy, Policy MD12 of the SAMDev and the NPPF in relation to ecological and biodiversity issues.

### 6.9

#### **Drainage**

#### 6.9.1

The application is accompanied by a flood risk assessment and its conclusions are considered acceptable.

#### 6.9.2

Whilst the Local Parish Council's concerns with regards to drainage are noted, the proposed drainage arrangements are clearly considered acceptable by the Council's drainage team and there is no intention to significantly increase the amount of surface water run-off, the scheme not resulting in any further significant increase in surface water areas. Representations have been received commenting on flooding problems in the immediate area. The site is not located in either flood zone 2 or 3 in accordance with the Environment Agency flood data maps and any existing problems appear to be associated with the maintenance and management of existing watercourses. New development should ensure that it does not increase the risk of flooding elsewhere. The proposed development will not create large area of surface water runoff, with the camping area remaining predominantly grass allowing natural infiltration of surface water.

#### 6.9.3

The proposed development will include provision, (as part of the adjacent previously approved scheme), for new toilet and shower facilities for those using the proposed facilities within the existing farm buildings and the campsite. These will be provided in a single converted building amongst the farm buildings. The applicant has detailed that a package treatment plant will be installed. Full details of the drainage system will need to be submitted as part of a planning condition in relation to surface and foul water drainage in order to ensure that it is appropriate for the development and the site.

#### 6.9.4

With consideration to the above-mentioned and the response received from the Council's Land Drainage with a condition attached with regards to foul and surface water drainage, the proposed development is considered acceptable in relation to drainage issues and Policy CS18 of the Shropshire Core Strategy and Policy MD2 of the SAMDev and the NPPF on this matter.

6.10

**Other matters.**

6.10.1

Concerns have been raised with regards economic benefits in that the environmental and landscape impact of the development as proposed will outweigh any economic benefits.

6.10.2

Policy CS5: Countryside and green belt and Policy CS13: Economic development, enterprise and employment in the Shropshire Core Strategy both encourage small-scale new economic development diversifying the rural economy, including farm diversification schemes

6.10.3

The applicants have submitted in support of their application a supplementary planning document which outlines the economic situation as well as commenting on their existing farming business and how the proposed development will integrate into this business. Detail received in relation to this aspect on balance is considered acceptable when weighing the proposal up against relevant local plan policies on this matter.

6.10.4

The proposed development is considered an appropriate form of farm and rural diversification which will assist in the diversification of the farming business it is connected to. Whilst it is regrettable that this part of the proposed diversification as a whole was not considered alongside and at the same time as the development adjacent to the site that has been granted approval by the Council, the scheme subject to this application under consideration is considered low key well-spaced out, in relation to the landscape, with no significant impacts on the historic environment, and offers considerable landscape and biodiversity enhancement. On balance this is considered acceptable and as such the development is considered to be in accordance with Policies CS5 and CS13, as well as MD11 of the SAMDev and other relevant local plan policies and the NPPF in relation to rural diversification and the needs and future of the existing farming business.

6.10.5

Comment has been made in one of the letters of objections received that insufficient information accompanies the application on which basis for the Council to make an informed decision. It is considered that information submitted in support of the application along with the additional supplementary planning document and in consideration of information in support of the previously approved application, scale and nature of the development subject to this application that there is adequate information on balance on which basis for Officers to make a recommendation, and for members to make an informed decision on the application. Concerns about pitch layout and discrepancies have been clarified and this matter is subject to one of the recommended conditions attached to appendix one should members be mindful to support the application.

7.0

7.1

**CONCLUSION**

The development proposes an extension to a camping site as part of a larger

7.2 scaled farm diversification project that as a whole with consideration to the location, environmental impact, (landscape, visual and historic), is considered acceptable in conjunction with the development approved alongside as well as in its own rights. The application proposes considerable landscape and biodiversity enhancement and these are to be welcomed and will assist in mitigating the development into the surrounding countryside.

7.3 Clearly as established in the report the application does not need to be accompanied by an Environmental Statement in accordance with EIA Regulations. With consideration to landscape and visual impact and impacts on the surrounding rural environment which is very traditional in character, the applicants submitted in support of their application a landscape and visual impact assessment and its conclusions are considered satisfactory. Landscape mitigation as discussed in this report will adequately address landscape and visual impact issues. Cumulative impact issues considered acceptable.

7.4 Impacts on the surrounding historic environment and setting of listed buildings is considered acceptable, consideration having been given to the Planning (Listed Buildings and Conservation Area), Act 1990, indicating local planning authorities must in the exercising of its planning functions have special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest which it possesses. Also consideration to other relevant local plan policies and the NPPF in relation to the historic environment and in conclusion on this aspect it is concluded that there will be no harm caused to any designated heritage assets as a result of the proposal.

7.5 Impacts in relation to ecological and biodiversity issues considered acceptable with conditions attached to any approval notice issued as recommended by the Council's Planning Ecologist in response to the application.

7.6 Impacts in relation to drainage matters, public highway and transportation issues and residential amenity also considered acceptable. Whilst it is acknowledged that one of the letters of objections received raised concerns with regards to overall transport sustainability, it is noted the site is located alongside an 'A' class public highway, will complement the existing approved development, the development will be associated and connected to and whilst it is acknowledged that little in the means of alternative transport to that of a private motor vehicle exists to serve the site, the site as indicated is alongside an A class road and is in any case a type of development that is highly reliant on private means of transport, in that the site will cater for touring caravans rather than static caravans permanently located on site.

7.7 The benefits of the scheme must be balanced against the fact that the site is not part of a significant settlement and that there is a lack of alternative forms of transport in the immediate area. In this instance, it is considered that the benefits of the scheme do outweigh the harms and that the proposal is considered on balance to amount to sustainable development.

The application received no adverse comments from any of the statutory

7.8 consultees and whilst it is acknowledged that the Local Parish Council has raised concerns with regards the overall sustainability of the proposal as does a letter of objection against the application. It is also acknowledged that many members of the public have written in support of the application. Consideration has been given to all letters of objections received in relation to the application.

7.9 On balance the application is considered acceptable and in accordance with Policies CS5, CS6, CS13, CS16, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2, MD7b, MD11, MD12 and MD13 of the SAMDev as well as the overall aims and objectives of the National Planning Policy Framework in relation to sustainable development.

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:  
Nation Planning Policy Framework

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS16 - Tourism, Culture and Leisure  
CS17 - Environmental Networks  
MD7B - General Management of Development in the Countryside  
MD12 - Natural Environment  
MD13 - Historic Environment  
MD2 - Sustainable Design  
MD11 - Tourism Facilities and Visitor Accommodation

**RELEVANT PLANNING HISTORY:**

NS/08/02110/FUL Conversion of outbuildings to form two residential units and garages; formation of glazed link; formation of vehicular access and alterations to existing vehicular accesses; installation of two septic tank drainage systems; formation of garden and amenity areas CONAPP 10th February 2009

NS/08/02149/ENQ Conversion of buildings to residential REC

11/01972/VAR Variation of condition 13 attached to planning permission reference

08/02110/FUL dated 10th February 2009 GRANT 30th June 2011

11/01979/DIS Discharge of Conditions 5, 6 and 11 attached to Planning Permission ref

08/02110/FUL for the conversion of outbuildings to form two residential units and garages; formation of glazed link; formation of vehicular access and alterations to existing vehicular accesses; installation of two septic tank drainage systems; formation of garden and amenity areas DISAPP 23rd December 2011

15/03706/FUL Conversion of part of a range of traditional agricultural buildings to form a farm shop with cafe/restaurant, a visitor centre and a caravan park with washroom facilities, associated drainage and access and conversion of part of traditional agricultural buildings to form a single dwelling GRANT 1st November 2016

17/01768/FUL Conversion of part of the range of traditional agricultural buildings to form a farm shop with a cafe/restaurant, a visitor centre and a caravan park with washroom facilities, associated drainage and access and conversion of part of the range of traditional agricultural buildings to be converted to form a single dwelling GRANT 18th September 2017

17/05647/FUL Extension to caravan and camping site to include change of use of land. WDN 23rd February 2018

18/01269/FUL Extension to caravan and camping site to include change of use of land (re-submission) PDE

#### 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)
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Cllr R. Macey
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Local Member
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Cllr Brian Williams
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Appendices
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APPENDIX 1 - Conditions
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**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 REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented and where ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots) will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- f) Identification of Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
  - vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

4. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

5. Prior to the development hereby permitted being first brought into use the internal access road layout and parking provision shall be implemented in accordance with the approved plans.

Reason: To provide adequate internal vehicle circulation and parking facilities.

6. Notwithstanding the approved plans, no development subject to this approval will be carried out until full engineering details of the proposed access alteration onto the A495, as shown on Drawing CF-AP-400 (excluding the access onto Rowe Lane, as amended by drawing no. 1696 D 09C in relation to the previously adjacent site approval reference 17/01768/FUL dated 18th September 2017 ) have been submitted to and approved in writing by the Local Planning Authority; the access alterations shall be implemented fully in an accordance with the approved details prior to the development hereby permitted being first brought into use.

Reason: In the interests of highway safety.

7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

8. A landscape management plan with regards to the long term management of the site will be submitted to the Local Planning Authority and approved in writing prior to any development on site. Implementation will be in accordance with this plan.

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

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

9. All hard and soft landscape works shall be carried out in accordance with the approved plan (drawing no. 1696 D 502 dated October 2017 and the extended phase one habitat survey

prepared by Arbor Vitae (dated November 2017). The works shall be carried out prior to use of any part of the site development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

10. The caravan/campsite shall be used to provide holiday accommodation only and shall not be occupied as permanent unrestricted residential accommodation or as a primary place of residence.

Reason: The site is outside of any recognised settlement and is in an area where unrestricted residential accommodation would not be appropriate.

11. No more than 15 individual touring camping units shall be accommodated on the site at any one time as detailed on the approved site layout plan. (15 mobile and 25 tents). The campsite shall only be used by touring type camping units and not for static caravans, chalets or other non-touring type units.

Reason: to ensure a satisfactory intensity and type of development.

12. A register shall be maintained of the names of occupiers of the site, the period of their occupation together with their main home addresses. This information shall be made available at all reasonable time to the local planning authority

Reason: General residential development in this location would be contrary to adopted local and national policy.

### **Informatives**

1. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist

should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

2. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801

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Committee and Date  
 North Planning Committee  
 24 July 2018

Item  
**7**  
 Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 18/00833/FUL	<b>Parish:</b>	Ellesmere Rural
<b>Proposal:</b> Siting of 3 log cabins and construction of an associated access track and parking area and all associated works to include change of use of land.		
<b>Site Address:</b> Land At Winston Ellesmere Road Tetchill Ellesmere Shropshire		
<b>Applicant:</b> Mr S F Jones		
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 338842 - 332052



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**Recommendation:- Refuse planning permission.**

## Reason for refusal

Whilst the scheme will provide some economic benefit by increasing the tourism offering that the area has, it is considered that this would be substantially outweighed by the visual and landscape impact harm as well as the impact on the setting of the heritage assets. Accordingly, it is considered that the proposal fails to comply with Shropshire Local Development Framework Core Strategy policies, CS5, CS16, CS17 and SAMDev Plan policies MD2, MD4 MD7b, MD11, MD12 and MD13. As well as the overall aims and objectives of the National Planning Policy Framework and in particular paragraph 28 and 134. .

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

1.1 Permission is sought for the change of use of agricultural land for the construction of three identical log cabins measuring 6.10m width, 13.1m length and overall height of 3.9m, for use as holiday accommodation. The cabins would contain two bedrooms and have a total floor area of 79.91 sqm. The scheme also includes the creation of a new access, a driveway leading to the three cabins and the provision of two parking spaces per cabin.

1.2 This current application follows the previous refusal in October 2017 for a similar scheme for the same number and type of cabins (17/03613/FUL), on a site slightly further to the north but still adjacent to the Llangollen Canal; the two schemes both have their proposed access in the same position. The previous application was refused for the following two reasons:

1. *“The proposal represents inappropriate development in open countryside in an unsustainable location for which no justification has been demonstrated. Accordingly, it is inconsistent with Shropshire Local Development Framework Core Strategy policies CS1, CS5, CS16 and SAMDev Plan policies MD2, MD4 MD7b and MD11. Including paragraph 14 and 28 of the National Planning Policy Framework.”*
2. *“No heritage assessment report was submitted with the application and therefore an accurate assessment cannot be made on the less than substantial harm to the non-designated Llangollen Canal and nearby Listed Bridge which includes siting, layout, design and proposed materials used in the scheme. Local policies CS17 and MD13 seeks to protect, conserve and enhance the asset, avoiding harm or loss to its significance where such harm or loss needs to be balanced against public benefit, which in this case is limited. Failing to meet with paragraphs 14, 128, 132 and 134 of the NPPF.”*

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The application site sits in open countryside sandwiched between the class III road along the south eastern boundary and the Llangollen canal on the north western



boundary. The site roughly consists of 0.58 hectares of farmland, rurally located approximately 360m to the west of the complex of building at Winston Farm which is located on the opposite side of the road. The edge of Tetchill is around 400m to the north of the application site.

- 2.2 To some extent the site is screened by the existing roadside hedgerow, however because the land rises away from the road, up towards the canal, much of the site is visible above the hedge when viewed from the passing road; when approaching the site from either direction.
- 2.3 Vehicular access to the site would be gained from Class III road following formation of new internal vehicular access track, which would be the principle access serving the site.
- 2.4 The application site sits on the outside of a bend on the Llangollen Canal the towpath alongside provides a footpath connection to Tetchill and Ellesmere.
- 2.5 Around 150 metres to the north of the application site there is a Grade II Listed canal bridge, a designated heritage asset as identified under Annex 2 of the National Planning Policy Framework.

### 3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council submitted views contrary to the officer which in the opinion of the local member warrant consideration by the planning committee.

### 4.0 **Community Representations Consultee Comments**

- 4.1 **Parish Council-** The Parish Council agreed to support this application providing conditions are in put place to limit length of occupancy for holiday use only, that ecological requirements/conditions are met, landscaping is put in place to screen the development and that any exterior lighting is installed will not cause undue pollution (suggest low level).
- 4.2 **Canal and River Trust-** object to the application.  
The submitted visualisations indicate the effect of established planting though it is considered that these have not demonstrated that this would add to the scheme or help to mitigate the impact on this rural stretch of canal and wider landscape character of generally open fields. The visuals do not demonstrate what the experience of the proposals would be from the canal towpath or boats and do not appear to show the associated access road/parking.

Therefore, the additional information does not significantly alter the overall impact that the proposed development would have upon the canals rural, open setting. We would therefore reiterate the comments in our previous response dated 28th March 2018 and advise that planning permission should not be granted for the following

reason:

The 3no. log cabins proposed due to their size, design, proximity to the canal and associated works, such as the access track/parking area would adversely impact on the visual amenities of the locality and the current rural setting of the Llangollen Canal, a non-designated heritage asset. The proposal would therefore be contrary to Policies CS16 & 17 of the adopted Core Strategy and Policies MD 11 & MD 13 of the adopted Site Allocations and Management of Development Plan (SAMDev).

4.3 **Public Protection-** no comment to make.

4.4 **Highways-** no objection subject to conditions.

4.5 **Ecology-** no objection subject to conditions and informatives

4.6 **Archaeology-** the submitted Heritage Assessment satisfies the requirements of Paragraph 128 of the NPPF and Policy MD13 in terms of assessing the archaeological interest of the proposed development site and concur with its findings that the site has low archaeological potential.

4.7 **Conservation-** have concerns about the impact of the scheme on the historic environment, in particular the setting of the Grade II listed canal bridge. The canal and its associated structures - including the designated asset - are set within an open rural setting which would be unavoidably and irreversibly altered by this development, and their significance affected as setting is considered to make a primary contribution towards this. Whilst promoting rural tourism, it would appear as an isolated development within the countryside, and is contrary to policies MD13 and MD2 and Chapter 12 of the NPPF; the decision maker should assess the application in relation to the harm identified, in accordance with paragraph 134, and any public benefits arising.

#### **Public Comments**

4.8 1 letter of objection received, commenting on the following issues:

Site is outside of development boundary

No economic benefit to Tetchill which has no shop or pub.

Impact on wildlife

Impact on flooding

Set a precedent.

Not in the interests of the village

5.0 **THE MAIN ISSUES**

Principle of development

Siting, scale and design and landscape

Highway Safety

Ecology  
Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Policy CS1 provides a strategic approach to managing new development in Shropshire County and seeks to limit sporadic speculative development in open countryside, encouraging new development to sustainable locations.
- 6.1.2 Policy CS5 builds on policy CS1 and seeks to strictly control new development located in open countryside, especially at locations which are considered unsustainable unless significant justification has been provided demonstrating its need and benefit. Very little significant justification has been submitted with the application.
- 6.1.3 The proposed development represents small scale new economic development of which, in principle tourism development is generally supported. Paragraph 28 of the NPPF specifically emphasises that sustainable rural tourism should be supported, only when the proposal respects the character of the countryside at appropriate location which is reiterated within local plan policies CS13 and MD4.
- 6.1.4 Policies CS16 and MD7b sets out how Shropshire's Canals are a valuable asset to the County and that appropriate tourism development can form a focus for tourism and regeneration. Whether a particular part of the canal network is "appropriate" depends upon a number of factors and must be read in conjunction with other planning policies, including CS4 of the Core Strategy and MD7b of SAMDev. It is not the rationale of the policy to automatically support tourism development on any site that is adjacent to the one of the county's canals.
- 6.1.5 Policy CS16 and MD11 state that proposals in rural areas must be close to or within settlements, or be at an established and viable tourism enterprise. New development would not be acceptable where it would result in isolated, sporadic, out of scale, badly designed schemes. Unacceptable development which may either individually or cumulatively erode the character of the countryside, would not be considered acceptable. In favour of the policy is the fact that the site is located adjacent to the canal and this is a significant tourist attraction as recognised in policy CS16. This however must be balanced against other elements of the policy which specifically advises that tourism proposals that are sited in countryside locations must compliment the character and qualities of the site's immediate and wider surroundings and landscapes. Policy MD11 further acknowledges that static caravans, chalets and log cabins are recognised as having a greater impact on the countryside and landscape character, further advising that non-natural features used for screening at a development should be avoided.
- 6.1.6 The canal is not only a benefit for tourism but it is also a non-designated heritage Asset. Near to the site there is also the Grade II Listed Bridge over the canal.

Policies CS6, CS17, MD2 and MD13 recognise there is a need to consider the scale, siting and design of the proposal, especially in terms of negative impacts upon existing environmental and historic assets in Shropshire.

- 6.1.7 The application site is within open countryside and does not relate directly to any existing farmstead. There is the applicant's farm but this is located on the opposite side of the road. As such, there are no other structures or building adjacent to the site to which the cabins would visually relate to. Instead the cabins would sit on their own. Neither is there an already established tourism business adjacent to the site, therefore failing the requirements of the Development Plan policies referred to above.
- 6.1.8 The site does not benefit from any footpath links to Tetchill, although in reality there are no services or facilities in Tetchill that could benefit from this tourism enterprise were tourists to walk there. Instead holiday makers would need to head to Ellesmere which is approximately a 3.8 km walk to its centre along the road, which does not benefit from a pavement or street lighting and has frequent traffic going to Ellesmere College. Alternatively tourists could use the canal towpath which would be a 4 km walk. Given the distance it is likely that the majority of tourists would elect to use the car and would be dependent on it in this rural location.
- 6.1.9 Having considered the site's position, the proposed development is not considered to be located within a sustainable location and would in effect introduce a new use and development within an established rural setting. This would interrupt and adversely impact upon established historic features and the wider landscape which comprises of gentle rolling hills and fields lined with hedgerows. No significant justification has been submitted to outweigh the environmental and social adverse harm, which includes an adverse impact upon heritage assets which would significantly and demonstrably outweigh the benefits of the scheme in line with paragraph 14 of the NPPF.
- 6.2 **Siting, scale and design and landscape**
- 6.2.2 The three proposed cabins, which includes the provision of external decking along two of its sides, together with the new internal access track and parking areas introduces inappropriate built development which irreversibly would detract from the existing quality and character of the established landscape. The applicant has detailed new "mature tree planting" which comprises scattered tree planting throughout the site and along the access track. Whilst such planting would help to screen and soften the impact of the cabins, the planting itself is likely to look out of place in a landscape that is characterised by open fields lined with hedgerows and occasional mature trees positioned within the boundaries. To introduce a field scattered with individual and clusters of trees is likely to appear alien in this landscape and draw more attention to the non-agricultural use of the site.
- 6.2.3 When viewed from the passing road the application site rises up towards the canal, as such the rear and side elevations of the cabins would be clearly visible above the roadside hedgerow along with the out of keeping landscaping scheme and would be very prominent in the local landscape. This would be detrimental to the

rural, open, agricultural landscape that users of the road experience once they have left the built up area of Tetchill. Further still development as proposed would have a significant impact on the canal itself and users of this stretch of waterway, which in itself is a major contributor to the local tourism industry.

- 6.2.4 In addition to the view from the road the proposed tourism development would be visible to those boating on the canal and also any walkers or cyclists using the tow path positioned on the northern bank of the canal. Depending on where a canal is located would determine the sort of experience that users would expect to have. Away from the urban area of Ellesmere users of the canal would expect to be in a quiet setting surrounded by fields with open views. They would not necessarily expect a tourism development in amongst a manufactured landscape. Whilst the canal would benefit those staying in the cabins, the cabins would conversely have a significant negative impact on those that use the canal/ towpath and their experience of them.
- 6.2.5 The Canals and Rivers Trust further advises that whilst the cabins would be set back from the canal, they would still be visually prominent when viewed from the canal and its towpath because of their overall size, their design and their expanse of decking. The applicant has described the proposed structures as “log cabins”, however the form, proportions and scale of the buildings are more akin to a static caravan, albeit timber clad, but still of an appearance that Officers consider difficult to blend into the landscape, especially one that is so open. This is recognised in policy MD11 of SAMDev where it states that, “static caravans, chalets and log cabins are recognised as having a greater impact on the countryside and schemes should be landscaped and designed to a high quality. As noted above it is considered that both the type of development and the proposed landscaping fails to satisfy these requirements.
- 6.2.6 In addition to the visual impact of the cabins there would also be the visual impact of the tourist’s parked cars and other ancillary items such as garden furniture, barbeques etc; further eroding the open, agricultural character of the immediate area and exacerbating the prominence of the tourism development and intrusiveness in the landscape, introducing an urbanising element.
- 6.2.7 As well as being sited adjacent to the Llangollen Canal, the scheme would be within the setting of heritage asset Grade II Listed canal bridge. The proposed site has been moved further away from the listed structure since the previous application was refused, this has lessened the detrimental impact. However, the Canal and River Trust and the Council’s Conservation Officer still consider that the proposal would result in harm to its character and setting. The extent of the harm is considered to be less than substantial. Under paragraph 134 where a proposal will lead to a less than substantial harm to a designated heritage asset then the harm must be weighed against the public benefit. There would be some economic benefit, by providing a small amount of employment for cleaning, maintenance etc of the site. In addition there would be the benefit gained from the spending power of tourists, although this would not be in the immediate area given the lack of local services and facilities, instead the economic benefit would be spread further afield. The site would provide an attractive site for tourists to stay in Shropshire, however

there is a greater number of tourists that use the canal whether by boat or on foot who would then be significantly affected by the visual impact of the development.

### 6.3 Highway Safety

6.3.1 The development site sits within a field and would be served by the formation of a new access track, which proposes to join the county road at the opposite side of access to Winston Farm.

6.3.2 The access layout, visibility splays and internal private road have been assessed and the highways officer considered the proposed arrangement to be acceptable in safety terms. However Officers have concerns with regards to the character of the layout of the entrance and loss of hedgerow in order to enable this development.

### 6.4 Ecology

6.4.1 An extended Phase One Habitat Survey was submitted with the application which undertook an assessment having regard to the proposed development impact upon ecology at the site location. Shropshire Council Ecology officer raised comments regarding the addition of planning conditions if planning permission were to be granted. However, in the context of its setting abutting onto Canal side and wider setting, the Canals and River Trust raise concern having regard to the proximity of the lodges and decking to the canal corridor and woodland, recommending additional condition requiring details of lighting.

### 6.5 Drainage

6.5.1 The application form states that foul sewage would be dealt with by way of a package treatment plant, but no further details have been submitted with the application.

## 7.0 CONCLUSION

7.1 The proposal represents inappropriate development in an isolated, open countryside location. The proposal is not the expansion of an existing tourism enterprise neither is it high quality accommodation in a location that is served by a range of services and facilities. The proposal is in a prominent position on raised ground to which development as proposed on site will have a significant impact on the surrounding landscape as well as visually in relation to the canal and users of this waterway which in itself acts as a significant draw to local tourism. As such the proposal fails to respect the character of the rural surroundings or the setting of both designated and non-designated heritage assets.

7.2 Whilst the scheme will provide some economic benefit by increasing the tourism offering that the area has, it is considered that this would be substantially outweighed by the landscape and visual harm and the impact on the setting of the heritage assets. Accordingly, it is considered that the proposal fails to comply with Shropshire Local Development Framework Core Strategy policies, CS5, CS16, CS17 and SAMDev Plan policies MD2, MD4 MD7b, MD11 and MD13. Including paragraph 28 and 134 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:  
NPPF

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt  
CS16 - Tourism, Culture and Leisure  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
MD4 - Managing Employment Development  
MD7B - General Management of Development in the Countryside  
MD11 - Tourism Facilities and Visitor Accommodation  
MD13 - Historic Environment

### RELEVANT PLANNING HISTORY:

11/02381/FUL Conversion of existing outbuildings to 4 no. holiday accommodation units  
GRANT 9th November 2011  
11/04274/FUL Installation of a 36.4m high to hub height with 9.6m blades, 50kw micro  
generation wind turbine with control box GRANT 10th April 2012  
15/01788/FUL Erection of an agricultural building GRANT 25th June 2015  
17/03613/FUL Siting of three holiday let properties with erection of raised decked area to each  
unit; to include change of use of land to tourism; construction of an access track and parking  
area REFUSE 18th October 2017  
18/00833/FUL Siting of 3 log cabins and construction of an associated access track and  
parking area and all associated works to include change of use of land. PDE

## 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 R. Macey

Local Member

Cllr Brian Williams

Appendices

None

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Committee and Date

North Planning Committee

24 July 2018

Item

8

Public

## Development Management Report

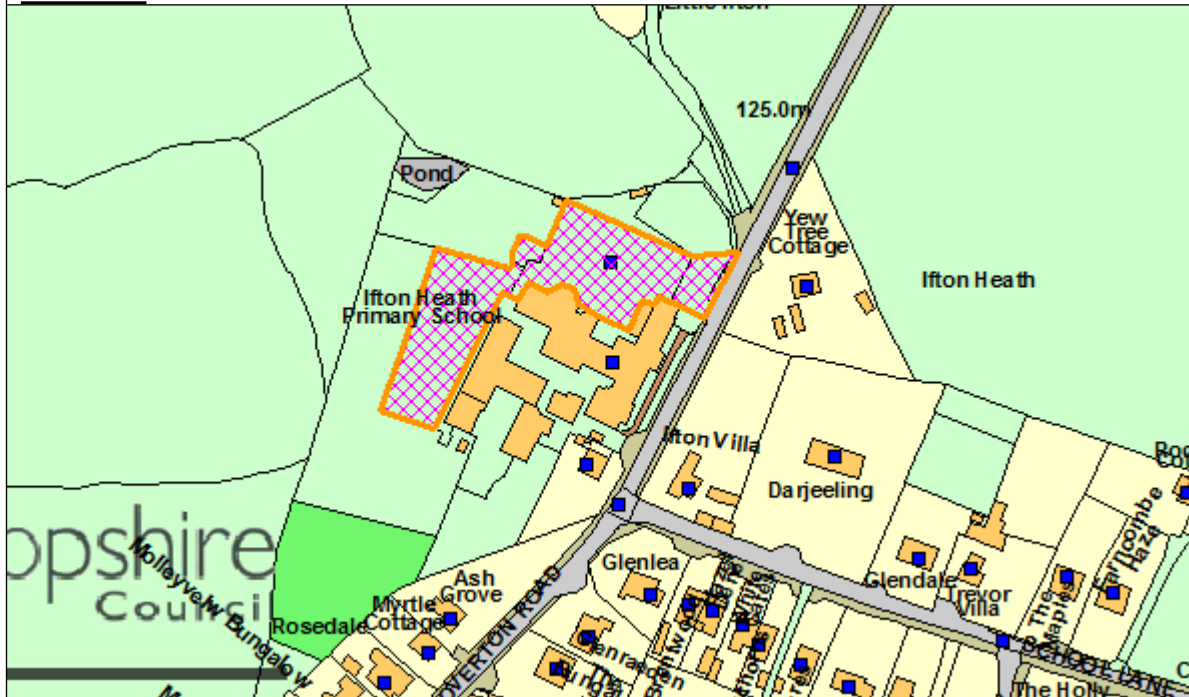
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 18/01959/VAR	<b>Parish:</b> St Martins
<b>Proposal:</b> Variation of Condition No.1 attached to permission 17/01284/VAR to allow for the family to remain on site for a further temporary period of twelve months	
<b>Site Address:</b> Ifton Heath Former Primary School Overton Road Ifton Heath St Martins Oswestry	
<b>Applicant:</b> Shropshire Council	
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

**Grid Ref:** 332617 - 337165



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application seeks consent for variation of condition 1 of planning permission 17/01959/VAR, this is the latest in a series of variations to the original planning numbered 15/00537/FUL. The original condition 1 restricted the use of the site by Travelling Show people for siting of caravans for a period of 12 months. The first variation permission numbered 16/02096/VAR provided a further 9 months for the site's occupation, the second then requested an additional 12 months under application numbered 17/01284/VAR. This current application now seeks consent to extend the time period again for a further 12 months.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The application site consists of the hard surfaced play area and grassed field to the north and west of the school buildings at Ifton Heath Primary school which is no longer used and has been out of use since the closure of the school. The caravans and associated vehicles have been sited on the hard standing since 2015. No structures or additional hard surfacing is proposed.

2.2 Ifton Heath school lies on the northern edge of the village of St Martins with existing housing to the east and south, a business to the north and agricultural land to the west and beyond the housing and business to the north and east. The school is made up of a variety of buildings with the roadside building being single storey, brick and tile with multi-pitched roofs. The hard surfaced play area is to the north of this building and is enclosed with green mesh fencing.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The minutes of the North Planning Committee meeting dated 12<sup>th</sup> May 2015 required any application for extension to the temporary period being considered at that time to be determined by the North Planning Committee.

### **4.0 COMMUNITY REPRESENTATIONS**

4.1 **St Martins Parish Council** – Although St Martins Parish council supported this application they had concerns that Shropshire Council who have a legal position to house this family seem to be doing little to look for an alternative site for this family.

**Police-** no objections

### **4.2 Public Comments**

4.2.1 No representations received at time of writing report.

### **5.0 THE MAIN ISSUES**

- ☐ Policy & principle of development
- ☐ Suitability of proposed site
- ☐ Layout of site
- ☐ Impact on local area and neighbours amenities
- ☐ Access and highway issues
- ☐ Drainage
- ☐ Other matters

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & Principle of Development

- 6.1.1 This application is to extend the use of a temporary site for a single family of travelling show people for a period of up to 12 months, which is in addition to the three previously approved consents which total 33 months. Travelling show people are defined in the Planning Policy for Traveller Sites (PPTS) (2012) as being:  
*“Members of a group organised for the purpose of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or family’s or dependant’s more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently but excludes Gypsies and Travellers”* (as these are defined separately).
- 6.1.2 The principle of the use has been accepted by the granting of the original 12 months consent and the subsequent extensions to further increase the time period. The key issue is therefore whether a further 12 month occupation would be unacceptable.
- 6.1.3 The status of the Stokes family as travelling show people was also accepted as part of the previous consents. The current application is for the same occupiers Mr Stokes and his family which consist of his wife, brother and two sons and their families. The accommodation requirements are therefore 5 caravans and therefore the 4 plots proposed for travelling show people within the North West of Shropshire within policy CS12. It is considered that there is an identified need for the site for Mr Stokes and his family and that no further evidence is required of need. Furthermore, no questions have been raised about the status of Mr Stokes and his family as travelling show people who prior to moving to their current site had been living on the land adjacent to the Smithfield Livestock Market in Oswestry for a number of years but had to relocate due to approval for re-development of that site.
- 6.1.4 Members may have concerns that the previously granted consents were meant to allow the Council time to pursue an alternative site for permanent occupation and that the applicant is now seeking a further 12 months. Alternatives are being considered by the Council with a view to finding the Stokes family a permanent site, however further time is required. Members should be reassured that alternatives are still being sought and there is no intention for there to become permanent occupancy of the Ifton Heath school site.

- 6.1.5 The site is currently being promoted as part of the Local Plan review, the outcome of this will then guide the Council with regards to its future intentions and development opportunities for the site.
- 6.2 Suitability of proposed site**
- 6.2.1 The application site is on the edge of St Martins using part of the ground of the former Ifton Heath Primary School. For planning purposes the site is considered to be countryside as it lies outside, yet adjacent to, the development boundary for St Martins. However, policy CS12 (Gypsy and Traveller Provision) supports development for this use close to the Community Hubs and Clusters such as St Martins. The policy does not prevent or resist this form of development outside of the development boundaries. Policy CS5, which controls development in the countryside, provides an exception for housing which is to meet an identified need, including the needs covered by policy CS12.
- 6.2.2 The site is adjacent to the primary school buildings and opposite existing housing. Although it is on the edge of the built development it is not considered to extend the village into the open countryside. There is an established hedge boundary around the school boundaries and the application site does not extend beyond the hedge. The proposal is for the continued siting of the caravans and associated vehicles on the hardstanding which was previously used as the school playground. The use of this part of the site means that no further hardstanding is required and therefore no built development is required to enable the occupation of the site for a further 12 months.
- 6.2.3 Although this does mean that the caravans and associated vehicles are visible from the Overton Road, which runs past the site, they have been located at the rear of the hardstanding and as such are set back into the site. It is Officers opinion that the layout has been undertaken in an appropriate manner which provides security and natural surveillance of the site and access and as such is acceptable and does not result in any significant harm to the character of the area.
- 6.2.4 The fairground equipment spends most of the year being moved from fair to fair and it is not within the occupier's interest to have equipment sat around unused and not making money. As such it is likely that for the majority of the time that there will not be any fair equipment on site. Although some equipment will occasionally be on site this is not a regular occurrence and the equipment will normally be out travelling between fairs and shows.
- 6.2.5 It is considered that the development of this site would meet the sustainable criteria in paragraph 11 of the PPTS. The site provides the opportunity to promote integrated co-existence between the occupants and the community; although only for an additional 12 months it will provide the occupants with a continuation of their settled base for a further 12 months and enable the family to continue to access health services and schools which they have been using.

### 6.3 **Layout of site, scale and design of buildings**

- 6.3.1 Policy CS12 also requires all developments to incorporate suitable design and screening and have suitable access and areas for manoeuvring and parking. Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.3.2 As noted above the caravans have been laid out towards the rear of the existing hardstanding in a row, end on to the road. The site is already enclosed with security fencing on the roadside and a hedge on the north boundary with the school buildings to the south. The land between the caravans and the roadside fence is available for parking and manoeuvring. No built development is proposed. The caravans provide all of the accommodation requirements for the family, kitchens and bathrooms within the units without the need for washrooms.
- 6.3.3 Policy CS12 requires all gypsy and traveller developments to incorporate suitable design and screening and the PPTS requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. The site is already enclosed with fencing and hedge boundary limiting the view of the development from the open countryside beyond the village. The current application for temporary use, does not propose any additional fencing or boundary treatments and it is considered that the existing boundary and siting provides sufficient screening and an appropriate layout so as not to result in significant adverse impacts.

### 6.4 **Impact on local area and neighbours amenities**

- 6.4.1 Paragraphs 12 and 23 of the PPTS states that when considering the suitability of a site regard should be had to the scale of the nearest settled community. As noted above St Martins is being promoted as a Community Hub, the third tier in the settlement hierarchy below Shrewsbury and the Market Towns. It is one of the larger villages in the north west of Shropshire and has a number of services and facilities. The proposals for a travelling show people's yard for one family, providing up to 5 plots, would not therefore dominate the settlement.
- 6.4.2 The nearest dwelling to where the caravans have been positioned is Yew Tree Cottage which is opposite the entrance to the site and is approximately 35 metres from the boundary fence and therefore further from the position of the caravans. The distance ensures that there is no loss of privacy and will also reduce the potential for light pollution providing the lighting is provided appropriately to not spill beyond the site. All other surrounding properties are further from the application site and therefore the amenities of existing residents would not be adversely affected by the use. The Planning Department is not aware that any complaints have been raised during the already lengthy occupation of the site by the Stokes family and therefore there is no evidence of any adverse impact.
- 6.4.3 With regard to the impact from traffic movements regard has to be had of the previous use of the site as a school which would have had associated traffic, large number of cars dropping off and collecting children, large delivery vehicles, buses to transport for trips and also the general noise of the use as a school and

playground. Regard also should be given to the confirmation that for the majority of the additional 12 month period applied for the fair equipment, and therefore the larger vehicles used to tow the equipment is off site travelling between fairs. As such it is considered that noise from traffic would be limited to the traffic associated with the occupation of the 5 residential caravans and as such would be a limited impact.

6.5.4 Overall it is considered that the use of the site, as laid out, for 5 caravans and associated traffic for occupation by a single family would not result in unacceptable loss of amenity for the residents of the neighbouring properties.

## 6.6 Access, highway and drainage issues

6.6.1 The site is served by a single access which was previously considered acceptable for the occupation of the site and there is no justifiable reason to consider that the access would not remain suitable for use for an extra 12 month period. The access, which previously served as access to the school, provides both vehicular and pedestrian access off Overton Road.

6.6.2 The caravans are sited on existing hard standing and as such will not create any additional surface water run-off. The agent for the applicant has confirmed that the caravans are not connected to the mains drainage system but are using their own internal facilities with a contract for emptying the systems. This therefore provides a form of private foul drainage and therefore no additional pressure on the existing foul or surface water drainage system.

## 7.0 CONCLUSION

7.1 Overall the development is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy, the site is close to the proposed community hub of St Martins and as such is close to a sustainable settlement. The scale of the development and the temporary nature of the current application is considered to be acceptable and would not result in any harm to the character of the area furthermore the proposed use of this site would not result in harm to the amenities of nearby residents given the distance of existing properties from the site.

7.2 The unmet need for a site for travelling show people within Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed harm in many cases.

7.3 In the case of this application it is officers' opinion that there is no harm resulting from the continued use of the site for a further 12 months for the single family and therefore that there is no grounds on which to refuse consent.

## 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 1990.

## 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. Background

### Relevant Planning Policies

Central Government Guidance:  
NPPF

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS12 - Gypsies and Traveller Provision

### RELEVANT PLANNING HISTORY:

15/00537/FUL Change of use of part of former school site to provide temporary residential site for single travelling showpeople family for a period of up to one year GRANT 14th May 2015  
16/02096/VAR Variation of Condition No. 1 attached to Planning Permission 15/00537/FUL dated 14 May 2015 to allow for the family to remain on site for a further temporary period of nine months GRANT 17th June 2016  
17/01284/VAR Variation of Condition No. 1 attached to permission 15/00537/FUL to allow for the family to remain on site for a further temporary period of twelve months GRANT 27th April 2017  
18/01959/VAR Variation of Condition No.1 attached to permission 17/01284/VAR to allow for the family to remain on site for a further temporary period of twelve months PDE

## 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 R. Macey
Local Member  Cllr Steven Davenport
Appendices APPENDIX 1 - Conditions

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

1. This permission shall be for a period of 12 months, from the date of this permission, by which date the caravans shall have been removed off site and the site reinstated to its previous condition.

Reason: The temporary consent is granted on the basis of the personal circumstances of the applicant.

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

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

3. The residential use of the site hereby permitted shall be limited to Mr Stokes and his resident dependents only.

Reason: To control the occupation of the site in accordance with adopted policy and on the basis of the personal circumstances of the applicant and the status of the site.

4. No more than 10 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

5. This consent does not permit the commercial operation or storage of any of the travelling show equipment from the application site.

Reason: To protect residential and visual amenities.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES****CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

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<u>Committee and Date</u>
North Planning Committee
24 July 2018

<u>Item</u>
<b>9</b>
Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### SCHEDULE OF APPEALS 24<sup>TH</sup> JULY 2018

#### Appeals Lodged

<b>LPA reference</b>	17/05750/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Jon Scarratt
<b>Proposal</b>	Erection of two storey side extension
<b>Location</b>	Laurel Bank, Painters Lane, Fauls, Whitchurch
<b>Date of appeal</b>	29.05.2018
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	17/00387/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Richard Cosgrove
<b>Proposal</b>	Erection of 4 no. one bedroom apartments and one dwelling following demolition of existing boxing club
<b>Location</b>	Oak Street Garage, Workshop and Premises, Oak Street, Oswestry.
<b>Date of appeal</b>	20.06.2018
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

**Appeals determined**

<b>LPA reference</b>	18/02645/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Manning C/O Mr M Askew
<b>Proposal</b>	Outline application (access, layout and scale) for the erection of nine dwellings
<b>Location</b>	Proposed Residential Development Land South Of The Villas Longford Turning Market Drayton Shropshire
<b>Date of appeal</b>	12.04.18
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	20.06.18
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	18/02640/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Ben Pocock
<b>Proposal</b>	Change of use of agricultural land to residential use, construction of two bay carport/garage, realignment of existing track, reuse of outbuilding as garden store, installation of additional cladding and external flue on existing barn, all to be used in connection with permitted barn conversion
<b>Location</b>	The Dutch Barn, Lee, Ellesmere.
<b>Date of appeal</b>	13.03.2018
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	25.06.2018
<b>Costs awarded</b>	No
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	18/02641/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Ben Poccock
<b>Proposal</b>	Application under Section 73A of the Town and Country Planning Act for the erection of one 2-storey dwelling with 2-bay part open fronted garage; erection of detached storage building; change of use of agricultural land to domestic residential use; formation of vehicular access track
<b>Location</b>	The Dutch Barn, Lee, Ellesmere.
<b>Date of appeal</b>	13.03.2018
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	25.06.2018
<b>Costs awarded</b>	No
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	18/02642/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Ben Poccock
<b>Proposal</b>	Application under Section 73A of the Town and Country Planning Act for the erection of 1No dwelling; erection of detached storage building; change of use of agricultural land to domestic residential use; realignment of existing vehicular access track and installation of package treatment plant (amended scheme)
<b>Location</b>	The Dutch Barn, Lee, Ellesmere.
<b>Date of appeal</b>	13.03.2018
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	25.06.2018
<b>Costs awarded</b>	No
<b>Appeal decision</b>	<b>ALLOWED</b>

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## Appeal Decisions

Hearing Held on 16 May 2018

Site visits made on 15 and 16 May 2018

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 June 2018**

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### **Appeal A Ref: APP/L3245/W/17/3188617**

#### **Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ben Pocock of Dukescroft Limited against the decision of Shropshire Council.
  - The application Ref 17/03208/FUL, dated 3 July 2017, was refused by notice dated 11 September 2017.
  - The development proposed is erection of a single detached dwelling together with ancillary works.
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### **Appeal B Ref: APP/L3245/W/17/3189268**

#### **Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ben Pocock of Dukescroft Limited against the decision of Shropshire Council.
  - The application Ref 17/01566/FUL, dated 30 March 2017, was refused by notice dated 20 June 2017.
  - The development proposed is change of use of agricultural land to residential use, construction of two bay carport/garage, realignment of existing track, reuse of outbuilding as garden store, installation of additional cladding and external flue on existing barn, all to be used in connection with permitted barn conversion.
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### **Appeal C Ref: APP/L3245/W/18/3194193**

#### **Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ben Pocock of Dukescroft Limited against the decision of Shropshire Council.
  - The application Ref 17/04613/FUL, dated 20 September 2017, was refused by notice dated 10 January 2018.
  - The development proposed is erection of a single detached dwelling together with ancillary works.
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## Decisions

1. Appeal A is allowed and planning permission is granted for the erection of a single detached dwelling together with ancillary works at Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE in accordance with the terms of the application, Ref Ref 17/03208/FUL, dated 3 July 2017, subject to the conditions in the attached schedule.

2. Appeal B is allowed and planning permission is granted for change of use of agricultural land to residential use, construction of two bay carport/garage, realignment of existing track, reuse of outbuilding as garden store, installation of additional cladding and external flue on existing barn, all to be used in connection with permitted barn conversion at Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE in accordance with the terms of the application, Ref 17/01566/FUL, dated 30 March 2017, subject to the conditions in the attached schedule.
3. Appeal C is allowed and planning permission is granted for the erection of a single detached dwelling together with ancillary works at Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE in accordance with the terms of the application, Ref 17/04613/FUL, dated 20 September 2017, subject to the conditions in the attached schedule.

### **Application for costs**

4. At the Hearing an application for costs was made by Mr Ben Pocock of Dukescroft Limited against Shropshire Council. This application is the subject of a separate Decision.

### **Background**

5. In 2015 the Council considered an application for prior approval under Schedule 1, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use from agricultural to residential use<sup>1</sup> 'the prior approval scheme'. The Council formed a view that prior approval was not required based on the evidence before them. I understand that the prior approval scheme relates to a Dutch barn, which is referred to by the main parties in the evidence. Subsequent to this, a certificate of lawful development (LDC) for issued by the Council for the replacement of existing infill wall panels with new infill wall panels with the external appearance and dimensions remaining unaffected<sup>2</sup> 'the LDC'. The LDC relates to the Dutch barn.

### **Procedural Matters**

6. As set out there are three appeals on this site. The schemes subject of Appeals A and C have been made under Section 73A of the Town and Country Planning Act 1990 (as amended) 'the Act'. Works have taken place, although none were taking place at the time of my visits. I shall turn to this matter in greater detail later in my decision, but cladding has not been applied to each elevation; the garage, balcony and staircase (Appeal A) have not been erected; the window and doors openings have not been installed; and the inside of the building is not complete. The works which have taken place accord with the schemes subject of Appeals A and C.
7. Appeal B differs as it relates to various development to be used in connection with the prior approval scheme and the LDC. Despite this difference, the scheme subject of Appeal B differs only in terms of its design to the schemes subject of Appeals A and C. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated.

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<sup>1</sup> Ref: 15/02591/PMBPA

<sup>2</sup> Ref: 16/03788/CPL

8. A signed and complete Unilateral Undertaking (UU) was submitted at the hearing by the appellant in respect of Appeals A and C. I shall turn to this later in my decision.
9. At the Hearing there was discussion about a suggested planning condition relating to the plans for each appeal, if I were minded to allow any of the appeals. As the suggested planning condition was not specific to each appeal, I asked the parties, without prejudice to their respective cases, to submit an agreed version of a plans condition specific to each appeal by 17:00 on 18 May 2018. I have had regard to the submitted conditions in arriving at my decision.
10. The Council, after the hearing was closed, submitted further evidence. I had not invited this evidence either at the hearing or at any point afterwards. Even so, as it related to discussions which took place at the hearing, I accepted this evidence. In the interests of fairness, the appellant and interested parties were given seven working days to comment on the Council's submissions. I have had regard to all the evidence submitted in my determination of the appeals.

### **Main Issues**

11. The first main issue for Appeals A and C is whether the development would accord with development plan policies relating to the location of development in the administrative area of Shropshire. In terms of Appeals A and B there is a main issue relating to the effect of the proposal on the character and appearance of the area. Also, for Appeal B, there is a main issue of whether or not the building is capable of being converted for residential purposes, having regard to works undertaken, permitted development and planning application Ref: 15/02591/PMBPA.

### **Reasons**

12. The appeal site is generally flat with a slight slope down from the site entrance on the western boundary towards the east of the site where a two storey steel framed building is sited. Two other buildings are on the site: a concrete frame single storey building and a steel-clad timber frame single storey building. A concrete water butt and a steel-clad timber-framed single storey building have been removed from site. An access track runs between the site's entrance and the two storey building. The site is bound by mature trees and hedgerows, especially along the site's southern boundary next to open pasture land.
13. The Cottage, a detached two storey residential property is to the north. The Cottage and the site are sandwiched between the C1031/25 and an unclassified road which adjoins the site's western boundary. The two roads form a junction to the north of The Cottage. Fields are to the east, west and south.

### *Location*

14. Policy MD1 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan December 2015 (SAMDev) states that sustainable development will be supported in Community Cluster settlements, having regard to Policies CS2, CS3 and CS4 of the Adopted Core Strategy (ACS) and to the principles and development guidelines set out in Settlement Policies S1-S18 and Policies MD3 and MD4 in the SAMDev. Policy MD1 identifies that Tetchill, Lee and Whitemere are a Community Cluster settlement in the Ellesmere Area. Tetchill is roughly to the west of Lee, while Whitemere is to the north-east.

15. SAMDev Policy S8.2(iv) explains that developing by infilling, groups of houses and conversions may be acceptable on suitable sites within the development boundary identified on the Policies Map. In Lee and Whitemere development will be limited to single infill plots and conversions. The proposals are for an open market residential dwelling.
16. There is no development boundary for Lee. As such, judgement is required to determine if the site is within the settlement of Lee. The Council contend that the settlement of Lee consists of a nucleus of properties to the north of the appeal site, which roughly start 320 metres away. This nucleus is not defined, but it does lie to the south of a sign identifying the village of Lee.
17. Underlying the Council's concern with the proposals is the potential harm to the settlements pattern, form and character. The Type and Affordability of Housing Supplementary Planning Document (SPD) offers advice about settlements. I acknowledge the SPD in this regard applies to exception sites, but it is a useful guide in terms of setting out the Council's thinking on settlements.
18. A settlement is a relationship between different properties; the limits of the settlement are defined by where the relationship peters out. To the south of the nucleus are intermittent pockets of development, which include farmsteads, residential properties and Lee Bridges Methodist Church. Shortly after the church is a sign which identifies the village of Lee. Open fields are between each pocket, which reflects the rural pattern, form and character of Lee.
19. The Council sought to distinguish the nucleus from the farmsteads to the south of the site, by saying the latter qualify as rural exception sites. However, they did not provide any evidence to support their claim. Added to this, I heard evidence that there are three farmsteads within the nucleus itself. This reflects the rural character of Lee. The Council accepted the farmsteads may have been in situ for some time. Furthermore, they could not explain why they should not be considered to be part of Lee, other than due to their distance from the nucleus.
20. The local population, including the Parish Council explain that they consider the extent of the settlement to be between the two village signs. I understand this view to be primarily based on a social and physical relationship. There is little evidence about an economic relationship before me. While the local community are not the decision makers in determining the extent of a settlement, they do offer a valuable insight, and thus they are a contributing factor, given that they are often best placed with local knowledge. The village signs are not in themselves a definitive extent of Lee, but they are part of the evidence that is before me.
21. I was informed at the hearing that Lee is an ancient settlement. I have little reason to doubt this, given the built form in the area to the north and south of the site and the historic maps for the area near to the site itself. As a result, it is very likely that there will have been, and will continue to be, social interaction between people living in the area either side of the appeal site, regardless of the outcome of the appeals.
22. The Council submitted that the outlying clusters of development ought to be ignored for purposes of characterisation. While, the development plan post-dates development in the area, settlements evolve over time and they are subject to change. Lee peters out to the east and west once away from the

C1031/25. Except Ellesmere College to the north, the northern extent of the nucleus marks the upper most part of Lee in this direction. I agree that postal addresses cannot be a determinative factor, due to the need to direct mail regardless of whether it is or isn't in a settlement, but the Council's view of Lee is to narrow. The physical and social relationship of Lee peters out to the south of the church. While there are gaps between the nucleus and outlying pockets of development, this is not uncommon in rural areas. As such, Lee is a dispersed rural settlement of loose-knit properties. On the round, the site is within the settlement of Lee.

23. If I determined that the site is within Lee, the parties accepted that ACS Policy CS5 would not apply as it relates to development in the countryside. Instead, they agreed that the proposals need to satisfy policies CS4 and S8.2(iv). The latter states that development in Lee will be limited to single infill plots and conversions. As both appeals are to erect a single detached dwelling, I shall explore if the schemes relate to a single infill plot.
24. The main parties agree that there is no definition of the term 'infill' provided in the development plan, any other Council document or in national policy and guidance. They both refer to a general approach to infilling which they consider to be a small gap within an otherwise built-up frontage or group of houses.
25. Agricultural buildings have and still populate the site, which is bound by mature trees and hedgerows. There is a large physical and visual gap to farmsteads to the south. Nevertheless, this is a characteristic of the settlement of Lee. A location next to a side road will not always preclude the definition of a site as being an infill site. Owing to the site's position between the side road and the C1031/25 it does physically and visually infill this space, and there would not be any encroachment beyond those roads or outside of the existing boundaries to the north and south. The schemes would re-use the site. A reduction of built form on the site compared to the agricultural use would result in some gains to the openness of the land, while the scale of the plot and built form would broadly reflect the character of built form in Lee. Moreover, a residential dwelling on the land would relate well to The Cottage. As such, the site is not physically isolated. The proposals would also be limited to a single infill plot.
26. My attention has been drawn by the appellant to other sites where new dwellings have been granted planning permission by the Council since the adoption of the development plan. I have also had regard to the appeal decision in Perthly referred to by the Council<sup>3</sup>. I have noted the decisions taken, and I recognise the Council's concerns about a precedent being set in terms of my interpretation of infill, but, I have made a site specific judgement based on the evidence presented. It would be for the Council in the first instance to decide any future development proposals having regard to the evidence before them.
27. In the Community Cluster, SAMDev Policy S8.2(iv) explains that there is a housing guideline of around 20 dwellings across the cluster. The Council's '5 Year Housing Land Supply Statement' details that as 'as of March 2017, the Community Cluster has delivered 5 completions, with an extra 14 sites benefitting from deliverable permission. The prior approval scheme is included in this figure. Even if this figure should be revised down to account for the Council's position on the prior approval scheme, the number of houses that

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<sup>3</sup> Appeal Decision Ref: APP/L3245/W/17/3189136

could potentially be built, if all implemented, would still be below the housing guideline. As such, the proposals are not be contrary to this figure, and a single extra dwelling is of a scale that is appropriate to the character of Lee and its environs. I accept that the plan period has some way to go, but the National Planning Policy Framework (the Framework) does seek to boost significantly the supply of housing, and the housing guidance is very much that, a guideline of around 20 dwellings.

28. The proposals would help bring about the rural re-balance of rural communities that is advocated in Policies CS1 and CS4. This would be achieved by future occupants helping shape the local community; the modest provision of a family dwelling; contributions to trades, supply chains, local services and facilities; and making the most effective use of land as required by ACS Policy CS6.
29. For these reasons, I conclude, on this issue that the schemes subject of Appeals A and C accord with ACS Policies CS1, CS4, CS6, SAMDev Policies MD1, MD2, and S8.2(iv) together with Framework paragraph 55. Collectively, these, among other things, limit development in the Community Cluster of Lee to single infill plots that is of a scale and design sympathetic to the character of the settlement and its environs. There would also be no conflict with ACS Policies CS5 and SAMDev Policies MD7a and MD7b as they apply to development in the countryside.

#### *Character and appearance*

30. It was an agreed point that the site has an inherent agricultural setting. While there are buildings on the site, the character and appearance of the site and its surroundings is semi-rural. Views of the site are available from the roads either side of the site only. They do vary due to the mature vegetation on the site and the presence of The Cottage.
31. The Council recognise that the schemes subject of Appeals A and B aim to reflect the site's agricultural context. Despite this, it is their view that the changes proposed through Appeals A and B, collectively amount to a domestic character and appearance, which would not be in keeping with the site's context and not achieve the appellant's design aims. Even so, the site is next to an existing residential property and there are others in the nearby area.
32. In refusing planning permission for Appeal B, the Council considered the scheme to have an unnecessary large curtilage, which would lead to an over domestication of the site. The size and layout of the curtilage proposed in Appeal B is, however, no different to those subject of Appeal A and C. The Council accepted in determining the planning application that is now subject of Appeal C that the scale of the curtilage was not harmful, having regard to the site's location, boundary screening and proposed landscape measures. No concern was expressed with the curtilage in Appeal A. The Council also accept that they do not have any concerns with the domestic activity that would inevitably go hand in hand with a residential dwelling, in terms of Appeal A and C. Suitable planning conditions could also control future development and obtain hard and soft landscaping to mitigate the effects of the proposals. These conditions are suggested as part of Appeals A and B. Given this, I find that no harm would arise from the curtilage proposed in Appeal B.
33. Much of the Council's concern with Appeals A and B relates to the proposed double berth garage which is identical in both schemes. While the plans are

- not conclusive that it would be built independently, the Council's reference to ACS Policy CS5 carries little weight in this case, given the policy, in respect of design, refers to heritage assets, which the appeal site is not. Furthermore, the scheme subject of Appeal A proposes a new dwelling and not a conversion.
34. However, it is still necessary to achieve high quality design given the great importance the Framework places on it in paragraph 56. The design does also need to have regard to the site's local context and character.
  35. The proposed garage would achieve this through the proposed use of materials, which reflect previous structures and a current building; and its scale which would be subservient to the dwelling, and form a transition to The Cottage. The design of the garage would also tie in with the dwelling. It would be modest, and an expected provision of a family sized dwelling.
  36. The balcony and granary style external staircase proposed as part of Appeal A would be new features in the area, but their scale, massing, design and appearance would broadly reflect the dwelling that they would form part of. They would be relatively small parts of the scheme that would not stand out to passers-by, and they would add interest. Despite the Council's concerns, the scheme subject of Appeal A would address the site's agricultural context and embrace an opportunity for a contemporary design solution, while taking reference from, and reinforcing local characteristics to create a positive sense of place, as explained by SAMDev Policy MD2.
  37. In questioning, the Council agreed that the window and door openings which form part of Appeal C were acceptable, despite their contemporary take on a Dutch barn. Although contemporary design can have a time and place, on this occasion, such an approach, in respect of Appeals A and B would not harm the character and appearance of the site and its surroundings as the majority of the openings would be viewed in the full context of the site and the barn.
  38. Each elevation would be finished with cladding. Cladding would differ to the typical brick finish applied to residential dwellings in Lee, but it is not an uncommon finish on agricultural buildings. Due to the site's context, the proposed cladding for Appeals A and B is acceptable.
  39. While, Appeal C may have, in comparison, a simpler vernacular that reflects the site's former setting and character, and the site would take on a more domestic nature, I do not agree with the Council that the collective changes proposed as part of Appeals A and B would be harmful to the character and appearance of the site and its surroundings.
  40. For the reasons set out above, I conclude that the schemes subject of Appeals A and B would not conflict with ACS Policies CS5, CS6 and CS17, SAMDev Policies MD2, MD7a, MD7b and MD12 and Framework paragraph 56. Jointly, these seek, among other things, development to be of high quality design that respects local distinctiveness, local character, and the landscape.

### *Conversion*

41. The appellant confirmed at the hearing that the prior approval scheme has been commenced, although they recognise that it must be completed within a period of three years starting with the prior approval date in accordance with the GPDO and the plan approved by the Council. They also confirmed that the LDC scheme has been carried out.

42. In addition to the prior approval scheme and the LDC, various works have been undertaken by the appellant. A summary of the works was provided by the appellant, which include: the replacement of internal floors at ground and first floors; the replacement of the roof; the renewal of water supply and drainage systems; replacement of exterior and interior walls between the steel frame; and work to the base of each of the steel columns which had become corroded at their base. A membrane has been attached to each elevation. Cladding, whether this be that which formed part of the prior approval scheme or as proposed under the appeals would be attached to the membrane.
43. The appellant considers various works undertaken outside the remit of the prior approval scheme and the LDC do not constitute 'development' under section 55(2)(a) of the Act. On this basis, it is the appellant's view that there is a fallback position which justifies the occupation of the Dutch barn as a dwellinghouse. I have been invited by the appellant to attach this significant weight in respect of Appeal B.
44. In determining the prior approval scheme, the Council were giving their view on whether its own "prior approval" would be required for the specified details of Class Q of the GPDO. It was not within the Council's gift to decide whether the development in question was, in fact, permitted development, but for the conversion to be permitted development it needs to fit within the remit of Class Q. The appellant has proceeded on site on the basis that the works are permitted development.
45. It is put by the Council's that the collective works undertaken mean that the prior approval scheme cannot be relied upon by the appellant as they amount to a 'fresh build' and not a conversion. The Hibbitt<sup>4</sup> judgement and an appeal decision at Leedes Farm<sup>5</sup> provide the context for the Council's opinion that it is a fresh build. A photograph shows that the Dutch barn was stripped back to its steel frame and roof, with each elevation removed after the Council's consideration of the prior approval and LDC. The Council also submit that the LDC was made on the basis of the building being used for agriculture as stated on the application form submitted at that time. Thus, the Council attach no weight to the fallback position presented.
46. The Council are correct in terms of the content of the LDC application form, but there is no restriction on the certificate issued by the Council following their decision that the works would fit within Section 55(2)(a)(ii) of the Act. There is no evidence to suggest that the appellant has carried out works outside the remit of the LDC.
47. At the hearing the appellant explained the extent of the works to the steel frame. In short, they consider these works to be repairs, which is a view supported in an email from a structural engineer. I have no contrasting substantive structural evidence before me to disagree with this view. Equally, the Council did not request or have before them a structural survey when they considered whether the building was structurally sound and capable of conversion under Class Q of the GPDO. The Council came to their own judgment on the prior approval scheme insofar as determining whether the extent of building operations set out on the plans accompanying that

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<sup>4</sup> Hibbitt and Another v Secretary of State for Communities and Local Government & Rushcliffe Borough Council [2016] EWHC 2853

<sup>5</sup> Appeal Decision Ref: APP/W3520/W/17/3188380



submission. While, this is the case, and ultimately whether the Council felt that a structural survey was required to assist them, the lack of one does not help matters now or the arguments advanced by either party as it forms uncertainty as a survey would have provided a clear starting point. This is unlike the information available in the Leedes Farm appeal.

48. Added to this, there is no structural survey before me now other than the email about the works to the steel columns. On this basis, even accounting for the Doe Lane appeal decision<sup>6</sup>, I do not have the evidence before me which persuades me one way or another whether the Dutch barn can be converted or it amounts to a fresh build. But, even if I were to accept the Council's arguments, the appellant in terms of Appeal B is relying on a building to be used as a dwelling of the same size, design and in the same location as that subject of Appeal C. There is also no difference between Appeals A and B in terms of the additional development proposed in Appeal B. Thus, even if I were to treat Appeal B as a new building, it would be acceptable in any event, given my findings on the other main issues.

#### *Other matters*

49. Points were made by both parties at the start of the hearing around allegations made by the Council that the appellant had been deliberately deceitful<sup>7</sup>. I understand the Council's position, given that there is a need for public confidence in the planning system, but this is a serious allegation, which stems from the site's planning history and one which should not be made lightly. Based on the evidence before me, I am not convinced that deceit has actually occurred. There has been considerable dialogue between the parties through a number of applications, and the appellant's intentions throughout seem to me to be clear enough. Although there is a need to assess each planning application on its own merits, having regard to the relevant considerations presented, I do, however, consider that a structural survey would have helped all concerned at the outset.
50. ACS Policy CS11 seeks to ensure that all new open market housing development makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target rate. The parties accepted, however, that this policy was not consistent with the written ministerial statement of 28 November 2014, which sets higher thresholds for affordable housing contributions. While, the parties accepted that there was a need to provide affordable housing, the appeal schemes fall well below the ministerial statement thresholds.
51. In any event, the UU as submitted would provide for an affordable housing contribution of £9,000. There was no dispute between the parties that this sum would accord with the SPD. I have no reason to disagree. Framework paragraph 204 and Regulation 122(2) of the Community Infrastructure Levy Regulations (CIL) outline planning obligations must meet the three tests. At the hearing, both parties agreed that the UU would not be necessary to make the development acceptable in planning terms. Moreover, the Council could not provide details how many separate developments had contributed to this pot, but did accept that it was very likely to be more than five. As such, I have not

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<sup>6</sup> Appeal Decision Ref: APP/F2605/W/17/3179670

<sup>7</sup> Secretary of State for Communities and Local Government and another v Welwyn Hatfield Borough Council [2011] UKSC 15

afforded the UU any weight and the payment which the UU allows for irrespective of my findings on this matter has not had any bearing on my decisions.

### **Conclusion and Conditions**

52. I have had regard to the planning conditions that were suggested by the Council and the appellant's comments. Where necessary I have re-ordered the conditions, amended the wording to ensure consistency with Framework paragraph 206 and consolidated the conditions where possible. I have, as agreed with the parties, altered the timescales so that the requirements of each condition imposed on each appeal can be met.
53. I have imposed a plans condition for each appeal in the interests of certainty. For each appeal I have imposed a condition to secure details of the materials to be used in the interests of the character and appearance of the area. I have also imposed a condition so that appropriate drainage and surface water connections are made in the interest of the environment. For each appeal, I have imposed a condition to secure details of hard and soft landscaping, in the interests of the character and appearance of the area. A lighting condition has been imposed for each appeal so that any external lighting does not affect ecology on the site and in the surrounding area, given its rural nature.
54. For each appeal I have imposed an amalgamated version of conditions for bat, bird and barn owl boxes in the interests of providing net biodiversity gains to halt the overall decline in biodiversity. In the interests of highway safety, I have imposed a condition to secure a visibility splay for each appeal, given the site's location on a bend and the existing hedgerow which restricts visibility to the north. In the interests of the safety of vehicles using the site and those on the highway, I have imposed a condition about surfacing for each appeal.
55. After discussion at the hearing, I have imposed a condition for each of the appeals to secure an assessment of potential contamination, and appropriate remediation if necessary. This is in the interests of the environment and the living conditions of future occupants. The Planning Practice Guidance<sup>8</sup> explains that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. While I have imposed such a condition for each of the appeals, I have changed the number of restrictions so the condition would not result in blanket removals of freedoms for small-scale domestic alterations. The conditions, as imposed, would ensure future extensions and buildings incidental to the dwellinghouse are erected in a controlled manner in the interests of the character and appearance of the area. I have not imposed a condition about the access, parking and turning areas as this duplicates the plans condition.
56. For the reasons set out above, I conclude that Appeals A, B and C should be allowed.

*Andrew McGlone*

INSPECTOR

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<sup>8</sup> Ref ID: 21a-017-20140306

## SCHEDULE OF CONDITIONS

### **Appeal A**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: LEE008b; LEE0010b; LEE009b; LEE005; and LEE007.

### **Appeal B**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: LEE008a; LEE0010a; LEE009a; LEE005; and LEE007.

### **Appeal C**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: LEE008b; LEE0010c; LEE009c; LEE005; and LEE007.

### **Appeals A, B and C**

- 2) Within 3 months of the date of this decision samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted in writing to the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) Within 3 months of the date of this decision a scheme of foul drainage, and surface water drainage shall be submitted to the Local Planning Authority in writing. The approved scheme shall be implemented before the development is first occupied.
- 4) Within 3 months of the date of this decision full details of both hard and soft landscape proposals shall be submitted to the Local Planning Authority in writing. These details shall include, as appropriate:
  - Proposed finished levels or contours;
  - Means of enclosure;
  - Hard surfacing materials;
  - Indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the duration of development;
  - Proposed planting plans; and
  - Written specifications (including cultivation and other operations associated with plant and grass establishment).

The approved works shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling hereby permitted, the completion of the development, or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced in the next planting season with others of a similar size and species.

- 5) a) No equipment, machinery or materials shall be brought onto the site for the purposes of the development hereby permitted until all the tree and hedgerow protection measures have been implemented on site and the Local

Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree and hedgerow protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

b) All services will be routed outside the Root Protection Areas indicated on the tree and hedgerow protection measures or, where this is not possible, a detailed method statement and task specific tree protection plan will be submitted in writing to the Local Planning Authority within 28 days of this decision. The development shall be carried out in accordance with the approved details before the dwelling hereby permitted is first occupied.

- 6) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development
- 7) Within 28 days of the date of this decision the makes, models and locations of bat, bird and barn owl boxes shall be submitted to the Local Planning Authority for their approval. The following boxes shall be erected on the site:
  - A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species;
  - A minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for starlings, house sparrows, swifts and/or house martins; and
  - A minimum of 1 nesting barn owl box in accordance with plan Ref: LEE008b).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The scheme of works, as approved, shall be approved and be carried out in accordance with the approved details before the dwelling hereby permitted is first occupied and thereafter retained for the lifetime of the development.

- 8) Visibility splays shall be provided at the access point at a point measured 2.4 metres back from the carriageway edge along the centreline of the access extending to the extremities of the site road frontage in both directions from the access along the highway. All growths and structures in front of these lines shall be lowered to and maintained at a height not exceeding 0.9 metres above the level of the highway carriageway and shall be fully implemented prior to the dwelling being first occupied.

- 9) The access apron shall be constructed in accordance with the Councils specification as follows; 20mm thickness of 6mm aggregate surface course, 40mm thickness of 20mm aggregate binder course, 200mm thickness of MOT type 1 sub-base and shall be implemented prior to the dwelling being first occupied.
- 10) Within 3 months of the date of this decision an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 28 days of the report being completed and approved in writing by the Local Planning Authority.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2, Part 1, Class A and E shall be erected, constructed or carried out other than those expressly authorised by this permission.

END OF SCHEDULE

FOR THE APPELLANT:

Stuart Thomas  
Ben Pocock

Berrys  
Dukescroft Limited

FOR THE LOCAL PLANNING AUTHORITY:

Philip Mullineux  
Ollie Thomas  
Melanie Durant

Shropshire Council  
Shropshire Council  
Shropshire Council

INTERESTED PERSONS:

Councillor Brian Williams  
Robin Pocock  
John Baker

Shropshire Council  
Appellant's father  
Resident

DOCUMENTS

- 1 3 x A3 Adopted Policies Map 2015
- 2 Appeal Decision Ref: APP/L3245/W/17/3189136
- 3 Plan Ref: Lee003
- 4 Appeal Decision Ref: APP/F2605/W/17/3179670



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## Costs Decisions

Hearing Held on 16 May 2018

Site visit made on 15 and 16 May 2018

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 June 2018**

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### **Costs application (a) in relation to Appeal Ref: APP/L3245/W/17/3188617 Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Ben Pocock of Dukescroft Limited for a full award of costs against Shropshire Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the erection of a single detached dwelling together with ancillary works.
- 

### **Costs application (b) in relation to Appeal Ref: APP/L3245/W/17/3189268 Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Ben Pocock of Dukescroft Limited for a full award of costs against Shropshire Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the change of use of agricultural land to residential use, construction of two bay carport/garage, realignment of existing track, reuse of outbuilding as garden store, installation of additional cladding and external flue on existing barn, all to be used in connection with permitted barn conversion.
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### **Costs application (c) in relation to Appeal Ref: APP/L3245/W/18/3194193 Barn adjacent The Cottage, Lee, Ellesmere SY12 9AE**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Ben Pocock of Dukescroft Limited for a full award of costs against Shropshire Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the erection of a single detached dwelling together with ancillary works.
- 

## Decisions

1. Applications (a), (b) and (c) for an award of costs are refused.

## Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The Guidance sets out the circumstances in which a local planning authority's handling of the planning application prior to appeal may lead to an award of costs. Parties in the appeal process are normally expected

- to meet their own expenses, and costs may not be claimed for the period during the determination of the planning application. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense in order to be successful.
3. The applicant's applications and the response of Shropshire Council were both submitted in writing. At the Hearing, both parties made several further points orally. I have had regard to these in reaching my decision on the costs applications. The Council submitted printed copies of a raft of email correspondence between the parties. The applicant considers that the Council has acted unreasonably on a procedural and substantive basis.
  4. For ease of reference and consistency with my decision, I shall refer to costs application (a) as Appeal A; costs application (b) as Appeal B; and costs application (c) as Appeal C. The applicant provided a table in support of their costs applications. Although this identifies the alleged source of unreasonable behaviour, in respect of each appeal, the applicant states that they are seeking "*all costs associated with the application/appeal preparation, submission and hearing.*" It is also clear that many of the alleged aspects of the Council's unreasonable behaviour do, in fact, transverse the three appeals. While, it is not common that three appeals are linked, I have considered the applications on this basis.

#### *Procedural matters*

5. The applicant submits that the Council has behaved unreasonably by: not co-operating with the applicant and by refusing to provide reasonably requested information; subsequently withdrawn a reason for refusal; provided information that has been shown to be manifestly inaccurate or untrue; and that a procedural error with determination of application could have led to a different method of determination.
6. Lengthy email correspondence spanning over two years were submitted by the Council at the hearing. I was not informed of their relevance or of particular emails that support a point the Council made in their rebuttal to the costs applications. Based on the applicant's submission that the Council has not co-operated with them, and reference to paragraph 187 off the National Planning Policy Framework (the Framework), I have taken them to relate to the Council's response on this matter.
7. Framework paragraph 187 states: "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.*"
8. Phone records provided by the applicant show that regular efforts have been made to contact the Council throughout the lifetime of each appeal. They do not, however, detail what was said or discussed. I do not have details of any phone calls that the Council may have made before me. Applications relating to this site appear to have involved multiple Council officers. There does also seem to be, based on the information before me, a potential lack of communication or the involvement of too many officers across the piece, which



- has resulted in the applicant feeling frustrated with the quality of responses to their enquiries on how the applications were progressing and what the Council's concerns were at times. The number of officers involved also led to various professional opinions being expressed. This was evident at the hearing, and it wasn't always helpful.
9. It is unfortunate that the applicant wasn't seemingly given an opportunity to withdraw their proposals or make further changes, but the Council does have a responsibility to determine applications in a timely manner. Notwithstanding Framework paragraph 187, applications should not be kept open in perpetuity.
  10. However, email correspondence provided by the Council shows that a fair amount of dialogue about the site has taken place over the last two years or so, and confirm that the parties have also met in person. The disputed issues have narrowed over time, and while I consider the Council could, at times, potentially have handled the applications before them better, on the whole across the three appeals, on balance, I consider that they have acted within the spirit of Framework paragraph 187.
  11. I note the applicant's points that draw out aspects of the Council's case in respect of infill, but the Council did not withdraw their concerns about this matter. Similarly, the Council defended the second reason for refusal (Appeal A) on a number of grounds. From the Council's evidence and from what I heard at the hearing the Council did not concede this ground. They did also adequately explain what their concerns were, even if I did not agree with them. Thus, no wasted or unnecessary expense has therefore been incurred by the applicant in this regard.
  12. The applicant submits that the application subject of Appeal A should have been determined by the Council's Planning Committee, having regard to the Council's Scheme of Delegation. Whether the application should or should not have been considered by the Planning Committee is not a matter for me. It is also not for me to guess how the Planning Committee may or may not have dealt with the application if it had been put before them. There is no certainty that the Planning Committee would have found in the applicant's favour or that it would have avoided the appeal before me, given that there was more than one reason for refusal. If the applicant is unhappy with how the Council handled the application, then they need to raise this directly with the Council in the first instance, and secondly through the Local Government and Social Care Ombudsman if they are unhappy with the Council's response. This procedural aspect of the costs applications falls outside of the appeal process, and it has not been clearly demonstrated that Appeal A would not have been needed.
  13. The officer reports related to the planning applications subject of Appeals A and C incorrectly set out the remit of the certificate of lawful development (LDC)<sup>1</sup>. Although the applicant submits that this consideration of the cases may have affected the Council's decision making, and thereby avoided the need for the appeals, these proposals also turned on the site's location and the effect of Appeal A on the character and appearance of the area. The LDC did not seem to affect the Council's assessment of these matters.
  14. My attention has been drawn to audio transcripts and recordings of the Planning Committee meeting on 9 January 2018 which relate to the scheme

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<sup>1</sup> Ref: 16/03788/CPL

subject of Appeal C. I note the content of the transcript, particularly the highlighted part. The sources of the various voices I heard in the recording is unclear, and I am not certain that the recording reflects the full discussion on the item, but it provides some context at least. The discussion I did hear centred on the LDC and the prior approval considered by the Council under Schedule 1, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use from agricultural to residential use<sup>2</sup> (the prior approval scheme).

15. Despite the merits of the points made in the recording, it is important to bear in mind what was applied for by the applicant. This was set out in the Planning, Design and Access Statement (PDAS) states that "*the planning application has been made in part retrospectively following alleged unlawful works that were carried out as part of the conversion of a dutch barn which was to be converted into a dwelling under Permitted Development rights. The alleged unlawful works were stated to be tantamount to the erection of a new building.*" It continues to say that "the application has been made on the basis that the works are not conversion (in the opinion of the LPA)." I am mindful of the applicant's stance on the extent of the works, the prior approval scheme and the LDC.
16. Without prejudice to either parties view, given the PDAS, the Council at the committee meeting seem to have strayed from what ought to have been the central issue at hand, namely whether the scheme was within Lee and the development was on an infill site. Although the Council's reason for refusal confirmed their view that the site was in the open countryside and thus not within Lee, the reason for refusal (Appeal C) specifically references "*neither an infill site or a conversion*". While the applicant did not agree with the Council's principal stance about conversion, their application and the appeal was only advanced on the basis of it being an infill site. Points made by the Council may well have led the applicant to incur additional expenses in defending their case at appeal, but I am not convinced that these would be any different to those associated with presenting their case for Appeal B. It is also unclear whether the Planning Committee would have made a different decision, as I am not certain that the full extent of their discussions is before me.

#### *Substantive matters*

17. On substantive matters, the applicant submits that the Council has behaved unreasonably by: making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and an unsubstantiated reason for refusal; refused planning permission on a planning ground capable of being dealt with by conditions where it is concluded that suitable conditions would enable the proposed development to go ahead; prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and acting contrary to, or not following, well-established case law; failed to produce evidence to substantiate each reason for refusal on appeal; and not determined similar cases in a consistent manner in accordance with well-established case law. Furthermore, they consider that the application and appeals could have been avoided by due regard being given the LDC; and that Council officers have failed to act objectively without personal opinions prejudicing their judgement.

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<sup>2</sup> Ref: 15/02591/PMBPA

18. Central to both Appeals A and C were the parties views on whether the site was in the settlement of Lee, and whether the schemes advanced were infill development. Considerable evidence was put to me in writing and at the hearing. Despite my findings, this does not mean that one parties view comprised of vague, generalised or inaccurate assertions that was unsupported by objective evidence. I was referred to other sites and cases by both parties, but in the end the issues warranted a site specific judgement to be made. This approach is needed due to the way policies in the development plan are phrased; the lack of any definition of what infill is; and as a result of case law. While, the main parties disagreed, and I acknowledge the Council's views evolved over time, I do not consider that the Council has acted unreasonably in advancing their case, as it essentially a planning judgement. They did respond on face value to the evolution of the respective appeals and the evidence available to support their view.
19. Concessions were made by the Council in relation to the effect of the proposed curtilage on the character and appearance of the area. So much so that they did not advance this as a reason for refusal in Appeal C. Given this stance, the Council had enough opportunity before the hearing to reflect their position in respect of the curtilage, insofar as Appeal B. When questioned at the hearing they accepted that this concern falls away. Although the Council could have acted earlier, the appellant was aware of the Council's stance on the scheme subject of Appeal C, and as a result, this ought to have provided comfort and avoided unnecessary work. Aside to this, the Council's behaviour does not extend to their consideration of the planning application which relates to Appeal B as it was determined prior to the scheme subject of Appeal C. Nor does it relate to an earlier planning application<sup>3</sup> considered by the Council as this case was before any of the appeals, and changes made by the applicant to the various schemes with a view to finding a solution.
20. However, the Council did pursue an argument that the LDC only applied to an agricultural use. While, I understand at the time of their submission the applicant confirmed the building was in lawful agricultural use, the LDC issued by the Council did not confine it to agriculture. Thus, it ought to have been properly taken into account. However, it was not the Council's sole concern with this scheme. Even though I have not agreed with the Council on the associated development's effect on the character and appearance of the area, and the Council did not pursue their concerns at appeal in relation to the curtilage, these matters all required judgements to be reached.
21. I acknowledge that the applicant sought legal opinion on a number of matters stemming from the Council's evidence. However, I am not convinced that in doing so, it has not resulted in unnecessary appeals or wasted expense above and beyond what is normally expected by parties involved in the process, especially given the issues at hand.
22. Having regard to the evidence before me in respect of the three appeals, I do not agree with the applicant that each case was clearly compliant with the development plan. Each case required a planning judgement to be exercised having regards to the site's specific circumstances. I note points about a development boundary, but the Council came to their own reasoned opinion on Lee, noting that it was an assessment for the decision maker, and they did recognise that only Tetchill has a development boundary. Furthermore, the

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<sup>3</sup> Council Application Ref: 17/00368/FUL

applicant's suggested use of planning conditions preventing any works related to the garage and garden from starting until the scheme subject of the prior approval was brought into residential use, would not have made that scheme acceptable given the Council's concerns about the garage.

23. The Council officer concerned does not recall saying the comments referred to by the applicant. If true, they would be personal opinions. Even so, there is no proof that they were actually made, given that they took place within a meeting of which I have no record of. Thus, the applicant has not clearly demonstrated unreasonable behaviour in this respect.

**Conclusion**

24. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

*Andrew McGlone*

INSPECTOR