



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

Date: Friday, 9 November 2018

**Committee:**  
**North Planning Committee**

**Date:** Monday, 19 November 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 - 4)**

To confirm the Minutes of the meeting of the North Planning Committee held on 16<sup>th</sup> October 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 12 noon on Friday, 16<sup>th</sup> November 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 Residential Caravan Site Known As The Paddocks, Warrant Road, Stoke Heath, Shropshire (18/04479/VAR) (Pages 5 - 20)**

Variation on Condition No.s 1 and 7 attached to Planning Permission 18/01257/VAR dated 07 June 2018 to double the number of caravans on Plot 7 from 2 to 4

## **6 Springhill Farm, Warrant Road, Stoke Heath, TF9 2JR (18/04131/VAR) (Pages 21 - 28)**

Variation of condition no. 8 attached to planning permission 18/00679/FUL to revise wording to read - The site shall be used for keeping game birds for no more than 17 weeks in any calendar year with associated equipment (including but not limited to feedstuffs and water containers), but excluding the pens and feeders, removed from the land between 1st August and 1st January in any one calendar year.

## **7 24 Lilac Grove, Oswestry, Shropshire, SY11 2SD (18/04308/FUL) (Pages 29 - 34)**

Erection of a single storey extension

## **8 Proposed Dwelling Opposite Browns Of Wem, Pool Head, Wem, Shropshire (18/02237/FUL) (Pages 35 - 46)**

Change of use of land and conversion of a show bungalow to residential dwelling and associated works (re-submission)

## **9 Land East Of Erdington Close, Shawbury, Shropshire (18/03983/FUL) (Pages 47 - 60)**

Application under Section 73A of the Town & Country Planning Act 1990 for the extension and resurfacing of an agricultural field access track.

**10 Appeals and Appeal Decisions (Pages 61 - 80)**

**11 Date of the Next Meeting**

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 11<sup>th</sup> December 2018 in the Shrewsbury Room, Shirehall, Shrewsbury.

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## Committee and Date

North Planning Committee

19<sup>th</sup> November 2018

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 16 October 2018**

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

**2.00 - 2.41 pm**

**Responsible Officer:** Emily Marshall

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

### **Present**

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Joyce Barrow, Pauline Dee, Rob Gittins, Roger Hughes, Vince Hunt (Vice Chairman), Mark Jones, Paul Milner, Peggy Mullock and Steve Davenport (Substitute) (substitute for Gerald Dakin)

### **30 Apologies for Absence**

Apologies for absence were received from Councillor Gerald Dakin (substitute: Councillor Steve Davenport).

### **31 Minutes**

The Chairman reported that Councillor Gerald Dakin had requested that the second bullet point at minute number 24, relating to the application at Broughall Fields Farm, be amended to read:

- He had one concern, which related to the log drying plant. Whilst he accepted that there was a need for it, he requested that consideration be given to putting a time constraint on the activity, for two years only, to work up a scheme **for utilising the surplus heat by the nearby industrial units.**

### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 24<sup>th</sup> July 2018 be approved as a correct record and signed by the Chairman, subject to the above amendment.

### **32 Public Question Time**

There were no public questions, statements or petitions received.

### **33 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.

With reference to planning application 16/04925/FUL, Barns at Edgeley Farm, Edgeley Bank, Whitchurch, Councillor Paul Wynn stated that he knew the applicant and his family and would move to the back of the room, taking no part in the debate or vote on the application due to perception of bias.

**34 Caravan Storage, Land North Of The Elms, Park Green Close, Whittington, Shropshire (17/05555/COU)**

The Area Planning Officer introduced the application for the change of use from agricultural land to storage of 34 touring caravans and motor homes and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Members noted the concerns of the Parish Council and the Local Ward Councillor and were pleased to note that conditions securing the implementation, retention and maintenance of landscaping mitigation measures were recommended as they felt that these would enhance the site and protect the amenity of nearby residents. Members formally suggested that if nearby residents had any concerns relating to out of hours vehicle movements, they report these to Shropshire Council's Planning Enforcement Team.

Having considered the submitted plans, Members unanimously expressed their support for the proposals.

**RESOLVED:**

That Planning Permission be granted, subject to the conditions set out in Appendix 1 of the Officer's report.

**35 Barns at Edgeley Farm, Edgeley Bank, Whitchurch, Shropshire (16/04925/FUL)**

*In accordance with his declaration at Minute 33. Councillor Paul Wynn moved to the back of the room during consideration of this application, taking no part in the debate.*

The Area Planning Officer introduced the application for the conversion of outbuildings to form 4 dwellings, to include some demolition and reconstruction, associated garaging and drainage.

During the ensuing debate, Members agreed with the principle of a conversion at the site, however a number of Members supported the officer's recommendation to refuse the application and considered that the extent of the proposed conversions was not acceptable when assessed against relevant planning policies. In response to a question from a Member, The Principal Planning Officer explained that if the application was refused, the applicant would be entitled to a "free go" application and if the applicant chose to withdraw the application at this stage, they would also be entitled to a "free go". It was on this basis that the applicant confirmed that he wished to withdraw the application.

**RESOLVED:**

That the application be withdrawn, as requested by the applicant.

**36 Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals for the northern area be noted.

**37 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 Monday, 19<sup>th</sup> November 2018 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....

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## Committee and Date

North Planning Committee

19<sup>th</sup> November 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>Application Number:</b> 18/04479/VAR	<b>Parish:</b>	Stoke Upon Tern
<b>Proposal:</b> Variation on Condition No.s 1 and 7 attached to Planning Permission 18/01257/VAR dated 07 June 2018 to double the number of caravans on Plot 7 from 2 to 4		
<b>Site Address:</b> Residential Caravan Site Known As The Paddocks Warrant Road Stoke Heath Shropshire		
<b>Applicant:</b> Mr Jamie Fitzgerald		
<b>Case Officer:</b> Jane Preece	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 364281 - 328627



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**Recommendation:- Approve, subject to the imposition of appropriate and revised planning conditions as discussed within this report and as set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 The application seeks consent to vary conditions 1 and 7 attached to planning permission 18/01257/VAR dated 07 June 2018 to double the number of caravans on Plot 7 from 2 to 4 at the residential caravan site known as The Paddocks, Warrant Road, Stoke Heath.

1.2 Under reference 18/01257/VAR, planning permission was granted for the following description of development:

*‘Variation of Condition No. 7 attached to Planning Permission 16/02362/VAR dated 18 July 2017 so that the number of caravans that can lawfully be stationed at the Plot 2, can be increased from 2 to 4’*

1.3 Conditions 1 and 7 attached to planning permission 18/01257/VAR read as follows:

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

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

7. *There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), shall be stationed at any time on plots 1, 3, 4, 5, 6, 7 and 8 and no more than 4 caravans shall be stationed at any time on plot 2. Notwithstanding the provisions of Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), only one caravan sited on plots 1, 3, 4, 5, 6 7 and 8 and only 2 caravans sited on plot 2 shall be a residential (static/chalet) mobile home.*

*Reason: In the interests of visual amenities.*

1.4 The application proposes to increase the number of caravans to satisfy the changing housing needs of the applicant. This is explained in the supporting Planning Statement:

*‘The additional proposed mobile home and touring caravan on plot 7 is for the growing applicant’s extended family.*

*The applicant’s children have grown older and require their own caravan. It is a gypsy and traveller tradition to remain living close to their extended family and support each other with everyday jobs. Male family members usually go travelling*

*together to find work.'*

- 1.5 The occupation of the site is restricted to gypsies and travellers by virtue of condition 6 of planning permission 18/01257/VAR.

## 2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The site forms part of a residential caravan site known as The Paddocks, Warrant Road, Stoke Heath. As detailed above the site has consent for 8 pitches. The caravan site is served by existing vehicular access off Warrant Road and the site boundaries are made up of well-established hedges.
- 2.2 The Paddocks site is approximately 3 miles from Hodnet and 6 miles from Market Drayton. Adjacent to The Paddocks site is an existing caravan site at Warren Park which, although set up originally as a transit site in the 1960's has no restrictions on occupancy. The surrounding residential development is made up of sporadic small groups of houses.

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

- 3.1 The Parish Council's views are contrary to that of officers. The Principal Planning Officer in consultation with the Local Member and the Planning Committee Chair/Vice Chair agree that the Parish Council has raised material planning considerations which warrant the referral of the application to the Planning Committee for consideration.

## 4.0 **Community Representations**

### 4.1 **Consultee Comments**

- 4.1.1 **SUDS** - Have no comment from the drainage and flood risk perspective, regarding the Variation on Condition No.s 1 and 7 attached to Planning Permission 18/01257/VAR dated 07 June 2018 to double the number of caravans on Plot 7 from 2 to 4.
- 4.1.2 **SC Regulatory Services** - No comment.
- 4.1.3 **SC Ecology** – No comments to make.
- 4.1.4 **SC Highways** – Recommendation: Further Details Required there is insufficient detail submitted with the application to make an informed highway comment, at this time.

Observations/comments: The application is seeking approval to increase the number of caravans stationed at Plot 7 on the site from 2 to 4, originally restricted to 2 under condition 7 of permission 16/02362/VAR. The siting of the additional 2 caravans is shown on Proposed Site Plan (Drawing No. 15-753B-003) and the need for the variation described in the supporting Planning Statement.

The application follows the approval of a variation to the same condition to also increase the number of caravans by 2 stationed on Plot 2 of the site under

reference 12/01257/VAR (NB: this should read 18/01257/VAR not 12/...)

The current application is the same in principle as the previous application and is appearing to be establish a continuing trend, with several the outstanding permanent pitches also potentially capable of accommodating additional caravans within their respective plots to cater for the changing demographics of resident families. The progressive increase in caravans, in effect doubling up on the plots could potentially increase the number of vehicles using the main site access accommodating this change in traffic flows could potentially have highway implications on the adjoining Class III Road and will need to be assessed.

As currently submitted the Proposed Site Plan (Drawing No. 15\_753\_003) has not demonstrated compliance with condition 5 of planning permission 16/02362/VAR which requires visibility splays of a depth of 2.5 metres and length of 95 metres from the centre point of the junction of the access road with the public highway to be provided. The visibility splays are to be kept free of any obstacles or obstructions for the lifetime of the development. The visibility provision has not been satisfactorily detailed on the submitted drawing. The submission of appropriate site photographs clearly qualifying the camera position at the setback position within the site access are also sought to confirm compliance with the condition.

4.1.5 **SC Gypsy Liaison** – No comments received.

4.1.6 **SC Learning and Skills** – No comments received.

4.1.7 **SC Planning Policy** - No comments received.

## 4.2 **Public Comments**

4.2.1 **Parish Council** - The Parish Council **OBJECT** to the Application on the basis of over development of a comparatively small site, one of the smallest at The Paddocks, and visual intrusion. The Committee is also concerned in terms of over development as the site has no formal drainage for either foul or surface water.

4.2.2 **Public representations** – Two public representations of objection have been received. The main points of objection raised are:

- ☐ This application ignores the original points made by the planning inspector at the original appeal. It demonstrates no consideration for the impact of over-development of this site on the local community. It also demonstrates no consideration for the fact that in this area of the county we have already been forced to accept more than our fair share of this particular type of development.
- ☐ Although we recognise the need for communities to change and grow, we have the following concerns about this application:
  - (i) It ignores the conditions established by the Planning Inspector, when the site was approved for a limited number of plots for specific residents.
  - (ii) It represents the potential over development of the site, which is not in-

keeping with the draft neighbourhood Plan.

## 5.0 THE MAIN ISSUES

- ☐ Overdevelopment
- ☐ Visual intrusion
- ☐ Highways
- ☐ Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Planning history background

6.1.1 **Appeal decision:** The development of the overall site to include for the '*... mixed use for the stabling/keeping of horses and stationing of caravans for residential occupation with associated works (hard standing, widen access tracks, electricity box, water/electricity connections, utility blocks, fencing, package treatment plant, refuse bin store)*', was granted on appeal on the 14<sup>th</sup> June 2013, subject to planning conditions.

6.1.2 The conditional appeal approval included 10 conditions, summarised below:

1. Development to accord with approved plans.
2. Residential use limitation to named persons and to temporary 3 year period.
3. Restoration of land when residential use ceases.
4. Prior approval of any amenity buildings prior to erection.
5. Limitation to 8 pitches and no more than 2 caravans per pitch.
6. Details of waste water system, animal water waste disposal, hard landscape works and lighting to be submitted for approval within two months and with timetable for implementation. LPA to give decision on submitted details/scheme within 10 months or appeal to be made. In the event of failure to meet these requirements then residential use to cease and all caravans and associated works to be removed.
7. No additional lighting without prior approval.
8. No vehicle over 3.5 T and no more than one commercial vehicle per pitch.
9. No commercial activities other than horse trading on the land.
10. Visibility splays of 2.5 m x 95 m to be provided within 3 months and thereafter kept free of obstruction for the lifetime of the development.

6.1.3 **16/02362/VAR:** Under planning application reference 16/02362/VAR consent was granted on the 18<sup>th</sup> July 2017 to vary conditions 1, 2 and 8 and remove condition 3 attached to the appeal decision.

6.1.4 In relation to conditions 1 and 2, justification was provided for a permanent, non personal use and to revise the layout and to provide for additional dayrooms to serve a permanent as opposed to a temporary use. As the proposals were considered development plan policy compliant, the variation to the approved plans was permitted, alongside varying the temporary and personal use to allow for a permanent use and for occupation by gypsies and travellers only. These agreed variations made condition 3 unnecessary so it was removed.

- 6.1.5 In relation to condition 8, it was also agreed to vary this condition by removing the restriction of the number of commercial vehicles per plot but retaining the restriction of the size of the vehicles to no more than 3.5 T.
- 6.1.6 Whilst not specified within the description of development condition 6 (drainage) was also varied at the time. It was reported that: *‘The drainage and waste storage information required was submitted to the Council within the deadline. However, the Council considered that additional information was required and as such the submitted details were never approved. The Case Officer did request that the drainage information be submitted as part of the current application, however the agent has advised that he does not intend to submit the information at this stage and confirmed that a further condition can be imposed.’* Hence the drainage condition was also varied to request the submission of the drainage system. There was some renumbering of the conditions within the decision for 16/02362/VAR, whereby the drainage condition was listed as condition 3.
- 6.1.7 **17/04136/DIS:** Following on from the approval of application 16/02362/VAR a discharge of conditions application (under reference 17/04136/DIS) was submitted to discharge conditions 2 (materials) and 3 (drainage). The prior approval requirements of the conditions were discharged on the 30<sup>th</sup> October 2017.
- 6.1.8 **18/01257/VAR:** Under the appeal decision and re-imposed under application 16/02362/VAR (as condition 7) the number of pitches on the land is restricted to 8 and the number of caravans per pitch to 2. In June 2018 an application to vary condition 7 of planning permission reference 16/02362/VAR was permitted to allow for the increase in the number of caravans on plot 2 to 4. As the prior approval requirements of the drainage condition (condition 3) had been discharged, condition 3 was also varied to incorporate this.
- 6.2 **Principle of development**
- 6.2.1 The site has planning permission for the stationing of residential caravans: the number of pitches (8); caravans (2 per pitch) and occupancy (gypsies and travellers only) being restricted by planning condition. A proposal is to increase the number of caravans allowed on plot 2 from 2 to 4 (to comprise 2 mobile homes and 2 touring caravans), was permitted under application 18/01257/VAR to serve the applicant’s growing family needs. It was accepted that that proposal was justified to fulfil the long-term housing needs of the extended family. In Gypsies and Traveller culture, the importance of the extended family is something which is recognised and acknowledged in the Council’s adopted Housing SPD. This current variation application is made on a similar basis and likewise is considered acceptable in principle.
- 6.3 **Overdevelopment and visual intrusion**
- 6.3.1 The application has attracted objections from the Parish Council and local residents on the grounds of overdevelopment and visual intrusion. However, it is considered by officers that the submitted site plan shows ample space to accommodate the additional mobile home and touring caravan without appearing cramped and further that the caravan site is surrounded by existing hedgerows which serve to screen the site and mitigate against any unacceptable visual intrusion.
- 6.3.2 The extent of development and visual impact are not new issues to this caravan

site. Referring back to the views of the Planning Inspector in determining the appeal which granted the temporary occupation of this site, the Inspector commented that:

*'In addition to a group of retained buildings the site is laid out in a series of spacious pitches each of which has an area proposed for hardstanding and a substantial paddock area on which the Appellants could keep animals. The south-west corner of the site has been planted with trees.*

*... the spacious, low-key nature of this scheme helps it to sit within the surrounding countryside without it being viewed as an incongruous intensive development and landscaping that has taken place would help to assimilate the development into the rural area.*

*... some of the caravans and associated development within the site were clearly visible from the site access from Warrant Road and also in glimpses through the mature hedgerow at points along the road.*

*However, I accept that at times of the year when the hedgerow is in leaf such views into the site would be reduced.*

*Partial views through gaps in field hedgerows of the upper parts of some caravans in the site would also be gained at a distance from a footpath (one field away) to the south-east of the site. However, both from close quarters and from points further afield in the public domain the effect of the development on the character and appearance is limited.'*

6.3.4 The Inspector went on to conclude that there was harm but the harm was not unacceptable in this location and in those terms there was no material conflict with the aims of Core Strategy policy CS5.

6.3.5 Despite the proposed introduction of a further two caravans on plot 7, it remains to be considered the development will continue to be relatively low-key, spacious and adequately screened, particularly bearing in mind that the boundary hedging any tree planting has further matured since the consideration of the appeal in 2013. Overall, therefore the accumulative impact of the additional caravans proposed is not considered so substantially harmful as to warrant refusal on the grounds of overdevelopment and visual intrusion in comparison with the scheme considered by the appeal inspector in 2013 or permitting the permanent use of the site under application 16/02362/VAR; or the additional two caravans on plot 2 permitted under application 18/01257/VAR.

#### 6.4 **Highways**

6.4.1 In respect of the previous application reference 18/01257/VAR considered earlier this year and seeking to increase the number of caravans by two, the Highway Authority raised no objection, commenting that: *'The likely change in traffic associated with the stationing of 2 additional caravans within an existing plot on the established site is not considered to result in undue highway safety issues to sustain an objection. The variation of condition 7 of planning permission 16/02362/VAR is considered to be acceptable purely in terms of the increase in caravans relating to plot no.2 only and condition 7 being revised accordingly.'*

6.4.2 In respect of this current application, the Highway Authority submitted a comment that there is *'insufficient detail submitted with the application to make an informed highway comment, at this time.'* The Highway Authority goes on to comment that the application appears to be establishing a continuing trend to cater for changing demographic needs of resident families and that the progressive increase in caravans could potentially have highway implications for the capability of the main site access and the adjoining class II road to accommodate this change. Furthermore, the currently submitted proposed site plan has not satisfactorily demonstrated the required visibility splays of 2.5 m x 95 m, as specified in condition 5 attached to planning permission 16/02362/VAR and re-imposed in respect of planning permission 18/01257/VAR. Condition 5 as relevant reads as follows:

6.4.3 *Within 3 months of the date of planning permission 16/02362/VAR (granted 18th July 2017) visibility splays of a depth of 2.5 metres and length of 95 metres from the centre point of the junction of the access road with the public highway shall be provided. Thereafter these splays shall be kept free of any obstacles or obstructions for the lifetime of the development.*

*Reason: To ensure a satisfactory means of access.*

6.4.4 Additional information has been invited from the applicant's agent in response to the comments raised by the Councils' Highway advisor. In the absence of any response, further clarification has been sought from Highways and the Area Highway Manager has provided the following additional advice:

6.4.5 *'I have viewed the application submission and highway advice from our term consultant WSP. It is noted that a highway site inspection has not been undertaken. The WSP advice clearly link the potential increase in traffic movements generated by the addition 2 caravans occupying Plot 7 and the current access to the site. The issues raised however surrounding the conformity of the access and visibility splay requirements that were imposed by the Inspectorate previously are, in my view, a matter for enforcement to consider and the appropriate action taken.*

*The site itself and Plot 7 indicate that adequate parking is available and raises no fundamental highway issues. The provision of 2 additional caravans within Plot 7 is unlikely to materially increase the site traffic movement in the context of the development as a whole.*

*Having regard therefore to the above I do not consider that a highway objection is warranted to the development sought. I consider however that your enforcement team should consider the site access and visibility splays set against the criteria set by the Inspectorate decision and specific highway conditions.'*

6.4.6 In light of the above, there is no outstanding highway issue that forestalls the determination of this current application and no reasons for refusal are warranted on highway grounds. The requirement for an adequate visibility remains a conditional requirement by virtue of condition 5, a variation of which is not sought as part of this application. The requirements of the condition will continue to apply and if not satisfied then this is will need to be looked at separately as a potential



enforcement matter.

**6.5 Drainage**

6.5.1 The Parish Council is '*... also concerned in terms of over development as the site has no formal drainage for either foul or surface water.*'

6.5.2 The requirement to provide a foul drainage scheme for prior approval together with a timetable for implementation was a conditional requirement of the appeal decision. That conditional requirement was carried through as a varied condition as part of planning permission 16/02362/VAR, ie condition 3 which reads as follows:

6.5.3 *Within two months of the date of this decision details of the proposed waste water treatment system(s) for the site and animal waste storage and disposal method shall be submitted to and approved in writing by the Local Planning Authority. The approved schemes shall thereafter be installed fully in accordance with the approved details within 4 months of the date of this decision and maintained as such for the lifetime of the development.*

*Reason: To ensure suitable waste water and animal waste treatment does not adversely affect the amenities of the local area.*

6.5.4 A discharge of conditions applications was consequently submitted to include for the discharge of the prior approval requirements of the above condition 3. The submitted drainage scheme denoted each plot to be served by individual septic tanks and soakaway arrangements, together with a designated concrete base for the storage of animal waste close to the site entrance. The discharge of conditions application was approved on 30<sup>th</sup> October, 2017.

6.5.5 Whether or not the drainage scheme has been installed in accordance with the approved details is a conditional compliance issue and not determinative to this current application. This matter will need to be looked at separately and potential enforcement action considered in the event of non-compliance with this condition.

6.5.6 As regards this current application, the foul drainage and associated soakaway arrangements are denoted on the submitted existing and proposed site plans. The plans show that plot 7 will continue to be served by a septic tank and soakaway arrangement, but that the soakaway system will be modified for the plot in terms of position due to the proposed siting of the additional two caravans.

6.5.7 In connection with this current proposal, the expectation is that the foul drainage arrangements will need to be upgraded to cater for the additional caravans. It is considered that this can be covered by an appropriate planning condition to secure the prior approval of a detailed scheme of foul and surface water drainage for plot 7 and this will require the additional variation of condition 3 attached to planning permission 18/01257/VAR. Condition 3 currently reads as follows:

6.5.8 *No development shall take place until a scheme of the surface and foul water drainage associated with the additional accommodation proposed on plot 2 the subject of this application reference 18/01257/VAR has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be*

*fully implemented before the development hereby approved is occupied/brought into use (whichever is the sooner) and thereafter maintained as such for the lifetime of the development.*

*With the exception of the foul and surface water drainage arrangements associated with the additional accommodation for plot 2 the subject of this application reference 18/01257/VAR, details of the proposed waste water treatment system(s) for the site and animal waste storage and disposal method submitted to the Local Planning Authority under discharge of conditions application reference 17/04136/DIS and approved in writing by Local Planning Authority on 30th October 2017 shall be installed fully in accordance with the approved details within 4 months of the date of planning permission reference 16/02362/VAR (granted 18th July 2017) and maintained as such for the lifetime of the development.*

*Reason: (i) The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding and (ii) To ensure suitable waste water and animal waste treatment does not adversely affect the amenities of the local area.*

- 6.5.9 With a varied drainage condition in place to include for the current proposals for plot 7, then the proposal is considered capable of compliance with adopted planning policies in drainage terms.

## 6.6 **Conditions**

- 6.6.1 When considering an application to modify conditions, Planning Practice guidance on the matter is that: *‘To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission.’*

- 6.6.2 Aside from the requested modification of conditions 1 and 7, condition 3 will also require modification to include for the drainage requirement in relation to plot 7 as discussed in section 6.4 above.

## 7.0 **CONCLUSION**

- 7.1 It is considered by the Local Planning Authority that the proposed variation the subject of this application for the increase of the number of caravans that can lawfully be stationed at plot 7 from 2 to 4 will not have an unacceptable impact on the visual amenities of the locality or local highway conditions and that the proposal can be adequately served by foul and surface water drainage arrangements, all subject to compliance with planning conditions.
- 7.2 It is apparent that there are two conditional compliance issues that have been raised in relation to i) the provision of the required visibility splays and ii) the implementation of the approved site drainage scheme. These need to be looked at separately as enforcement matters and do not prevent the determination of this application.

- 7.3 Accordingly, approval is recommended subject the imposition of appropriate and revised planning conditions as discussed within this report and set out in the attached Appendix.
- 7.4 In considering the proposal due regard to the following local policies and guidance has been given, when applicable: Shropshire Core Strategy policies CS5, CS6, CS12, CS17 and CS18; SAMDev Plan policies MD2, MD7A and MD12; the Council's SPD on The Type and Affordability of Housing; the GTAA 2017; the PPTS and the NPPF.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Shropshire Core Strategy and SAMDev Plan policies:

CS1 - Strategic Approach  
 CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS9 - Infrastructure Contributions  
 CS17 - Environmental Networks  
 CS18 - Sustainable Water Management  
 MD1 - Scale and Distribution of Development  
 MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside  
 MD12 - Natural Environment  
 Settlement: S11 - Market Drayton  
 SPD Type and Affordability of Housing  
 Shropshire Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2017

Central Government Guidance:

National Planning Policy Framework 2018  
 Planning policy for traveller sites 2015

### RELEVANT PLANNING HISTORY:

12/01315/FUL Application under Section 73a of the Town and Country Planning Act 1990 for change of use of land to form residential caravan site comprising 8 pitches, erection of day room/WC outbuilding and installation of septic tank drainage system (Retrospective) NPW 4th April 2012

12/01424/FUL Application under Section 73A of the Town & Country Planning Act for the change of use of land to form residential caravan site to include 8 pitches (2 caravans per pitch), erection of 8 utility blocks and boundary fencing; works to widen existing vehicular access and formation of internal access tracks; installation of package treatment plant; change of use of existing agricultural building to equestrian use REFUSE 8th August 2012

13/03171/DIS Discharge of conditions 4 and 6 on planning permission 12/01424/FUL for the stabling/keeping of horses and stationing of caravans for residential occupation with associated works (hard standing, widen access tracks, electricity box, water/ electricity connections, utility blocks, fencing, package treatment plant, refuse bin store) DISREF 10th May 2016

16/02362/VAR Variation of Condition No.s 1, 2 and 8 and removal of Condition No. 3 attached to planning permission 12/01424/FUL dated 14 June 2013 (Appeal Decision ref: APP/L3245/A/12/2186880) - Application under Section 73A of the Town & Country Planning Act for the change of use of land to form residential caravan site to include 8 pitches (2 caravans per pitch), erection of 8 utility blocks and boundary fencing; works to widen existing vehicular access and formation of internal access tracks; installation of package treatment plant; change of use of existing agricultural building to equestrian use GRANT 18th July 2017

17/04136/DIS Discharge of Conditions 2 (Materials) and 3 (Drainage) relating to Planning Permission 16/02362/VAR for the variation of Condition No.s 1, 2 and 8 and removal of Condition NO.3 attached to planning permission 12/01424/FUL dated 14 June 2013 (Appeal Decision ref: APP/L3245/A/12/2186880) - Application under Section 73A of the Town & Country Planning Act for the change of use of land to form residential caravan site to include 8 pitches (2 caravans per pitch), erection of 8 utility blocks and boundary fencing; works to widen existing vehicular access and formation of internal access tracks; installation of package treatment plant; change of use of existing agricultural building to equestrian use. DISAPP 30th October 2017  
18/01257/VAR Variation of Condition No. 7 attached to Planning Permission 16/02362/VAR dated 18 July 2017 so that the number of caravans that can lawfully be stationed at the Plot 2, can be increased from 2 to 4 GRANT 7th June 2018

#### Appeal

12/01999/REF Application under Section 73A of the Town & Country Planning Act for the change of use of land to form residential caravan (gypsy traveller) site to include 8 pitches (2 caravans per pitch), erection of 8 utility blocks and boundary fencing; works to widen existing vehicular access and formation of internal access tracks; installation of package treatment plant; change of use of existing agricultural building to equestrian use ALLOW 14th June 2013

#### 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)
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Cllr R. Macey
Local Member
Cllr Karen Calder
Appendices APPENDIX 1 - Conditions

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

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

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

2. The materials to be used in the construction of the amenity buildings shall accord with the details of the materials approved under the discharge of application reference 17/04136/DIS, approved on 30th October 2017. The amenity buildings shall be erected and retained thereafter in accordance with the approved details.

Reason: To ensure that the amenity buildings are appropriate for the area.

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

3. No development shall take place on either plot 2 or 7 until a scheme of the surface and foul water drainage associated with the additional accommodation proposed on plot 2 the subject of application reference 18/01257/VAR and plot 7 the subject of this application reference 18/04479/VAR as relevant has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development approved on either plot 2 or 7 as relevant is occupied/brought into use (whichever is the sooner) and thereafter maintained as such for the lifetime of the development.

With the exception of the foul and surface water drainage arrangements associated with the additional accommodation for plot 2 the subject of application reference 18/01257/VAR and plot 7 the subject of this application reference 18/04479/VAR, details of the proposed waste water treatment system(s) for the site and animal waste storage and disposal method submitted to the Local Planning Authority under discharge of conditions application reference 17/04136/DIS and approved in writing by Local Planning Authority on 30th October 2017 shall be installed fully in accordance with the approved details within 4 months of the date of planning permission reference 16/02362/VAR (granted 18th July 2017) and maintained as such for the lifetime of the development.

Reason: (i) The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding and (ii) To ensure suitable waste water and animal waste treatment does not adversely affect the amenities of the local area.

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

4. No additional lighting shall be erected on site until such details have been submitted and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of the local area.

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

5. Within 3 months of the date of planning permission 16/02362/VAR (granted 18th July 2017) visibility splays of a depth of 2.5 metres and length of 95 metres from the centre point of the junction of the access road with the public highway shall be provided. Thereafter these splays shall be kept free of any obstacles or obstructions for the lifetime of the development.

Reason: To ensure a satisfactory means of access.

6. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites August 2015 or any subsequent amendment of that document.

Reason: to ensure that the occupation of the site complies with policy CS12 of the Shropshire Core Strategy.

7. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), shall be stationed at any time on plots 1, 3, 4, 5, 6 and 8 and no more than 4 caravans shall be stationed at any time on plots 2 and 7. Notwithstanding the provisions of Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), only one caravan sited on plots 1,3, 4, 5, 6 and 8 and only 2 caravans sited on plots 2 and 7 shall be a residential (static/chalet) mobile home.

Reason: In the interests of visual amenities.

8. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: In the interests of visual amenities.

9. No commercial activities other than the trading of horses shall take place on the land including the storage of materials in connection with commercial activities.

Reason: To protect residential and visual amenities

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## Committee and Date

North Planning Committee

19<sup>th</sup> November 2018

## Item

6

Public

## Development Management Report

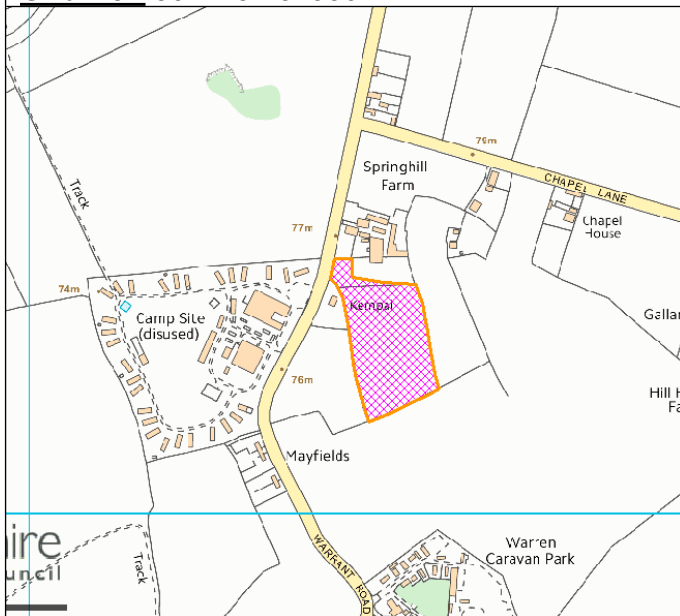
Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 18/04131/VAR	<b><u>Parish:</u></b>	Stoke Upon Tern
<b><u>Proposal:</u></b> Variation of condition no. 8 attached to planning permission 18/00679/FUL to revise wording to read - The site shall be used for keeping game birds for no more than 17 weeks in any calendar year with associated equipment (including but not limited to feedstuffs and water containers), but excluding the pens and feeders, removed from the land between 1st August and 1st January in any one calendar year.		
<b><u>Site Address:</u></b> Springhill Farm Warrant Road Stoke Heath TF9 2JR		
<b><u>Applicant:</u></b> Mr Andrew Growcott		
<b><u>Case Officer:</u></b> Sue Collins		<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 364413 - 329361



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**Recommendation:- Delegate to the Head of Service approval subject to the conditions as set out in appendix 1 and any amendments to these conditions as considered necessary by the Head of Service.**

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application seeks to vary condition 8 attached to planning permission 18/00679/FUL granted on the 20<sup>th</sup> July 2018. The permission relates to the change of use of agricultural land for the breeding of game birds.

1.2 The current wording of condition 8 is as follows:

*8. The site shall be used for keeping game birds for no more than 17 weeks in any calendar year and all structures associated with the pheasant rearing shall be removed from the land between the 1st August and the 1st January in any one calendar year.  
Reason: To protect the amenity of nearby residents.*

1.3 The proposal is to amend the wording to the following:

*The site shall be used for keeping game birds for no more than 17 weeks in any calendar year with associated equipment (including but not limited to feedstuffs and water containers), but excluding the pens and feeders, removed from the land between 1st August and 1st January in any one calendar year.*

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

2.1 The site is located at Warrant Road, Stoke Heath and is situated to the south of Springhill Farm and to the east of Kempal. The land is otherwise surrounded by other agricultural land.

2.2 The topography of the area is relatively flat. The field boundaries are generally defined by hedgerows with mature/semi-mature trees interspersed within the landscape. Access to the site is off Warrant Road between Springhill Farm and Kempal.

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

3.1 Committee consideration is required for this application as the Parish Council has raised material considerations that cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Team Manager (Planning) or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee. The site has planning history and the previous application was approved under delegation.

### **4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online**

#### **4.1 Consultee Comments**

##### **4.1.1 Parish Council: Objects**

The Parish Council OBJECT to the Application on the grounds that the original application maintained that the site would be grazed, but this is not possible within the pens. Unless the structures are removed it will not be possible to clean the

land removing the dead birds, faeces and weed growth which would be to the detriment of the local amenity. Further, without dismantling the pens the approved layout of the site cannot be implemented as the current locations are not in accordance with the submitted and approved plan.

4.1.2 **Regulatory Services:** No objection to this variation.

4.1.3 **SUDS:** No comment

## 4.2 **Public Comments**

4.2.1 Five letters of representation have been received. The areas of concern relate to:

- Conditions attached to the permission have not yet been discharged and therefore this should not be permitted until the outstanding conditions have been complied with.
- There is no access for sheep to graze within the pens.

## 5.0 **THE MAIN ISSUES**

- ☐ Principle of Development
- ☐ Implications of Change of Condition

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Policy & 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 slight amendment to the wording of condition 8 will have no impact on the overall use of the site in restricting the period of time when the site can be used for the keeping of game birds. The change relates to the removal of the pens when not required. As such no objection is raised to the principle of the development,

### 6.2 **Implications of Change of Condition**

6.2.1 Concerns have been raised that this condition should not be varied until all the necessary conditions have been complied with including the position of the pens, the landscaping, fencing etc. In addition it is claimed that the sheep will not be able to properly graze the land and it will not be possible to clean the site thoroughly between the use of the site for birds, if the pens remain in place.

6.2.2 The primary function of condition 8 is to restrict the use of the land for the keeping of game birds to no more than 17 weeks between the 1<sup>st</sup> January and 1<sup>st</sup> August each year. To prevent further usage, it was the opinion of officers that the applicant be required to clear the site of all structures. However, it has been made clear by this submission that the removal of the pens is not feasible and that

sheep can graze inside the pens when not occupied by birds as was evidenced by the Case Officer during the site visit.

6.2.3 It has been requested that this application be refused on the basis that none of the conditions have yet been complied with that were attached to the original permission. There is currently an application under consideration dealing with the relevant conditions and as soon as the details are acceptable to the Local Planning Authority, the relevant decision will be issued and the works can be carried out. Until then the applicant must not start works. As the site will not be used for the housing of birds until 2019 there is time yet for the works to be carried out and the pens moved so that they comply with the planning permission.

6.2.4 In terms of the husbandry of the site, unless this impacts on the amenities of the local area, it is beyond the governance of the Local Planning Authority. Any issues with regard to the welfare of the birds is dealt with by other bodies under different legislation. With the original application allegations of this kind were made however, evidence was also provided that demonstrated the relevant authority visited the site and the issue was dealt with to their satisfaction. In terms of impact on local amenities, no objection has been raised from the Council's Regulatory Services Officer

6.2.4 Overall on balance it is considered by officers that there is no justification on which to sustain a refusal of the application to vary condition 8 of planning permission 18/00679/FUL.

## **7.0 CONCLUSION**

7.1 It is the recommendation of Officers that the matter be delegated to the Head of Service for approval subject to conditions as outlined in appendix 1 and any amendments to these conditions as considered necessary by the Head of Service.

## **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.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against

non-determination for application for which costs can also be awarded.

## 8.2 **Human Rights**

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

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

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

## 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10. **Background**

### Relevant Planning Policies

Central Government Guidance:

NPPF – National Planning Policy Framework

Core Strategy and Saved Policies:

CS5 – Countryside and Greenbelt

CS6 – Sustainable Design and Development Principle

### RELEVANT PLANNING HISTORY:

PREAPP/10/02299 Possible change of use from agricultural to commercial use REC

NS/89/00889/FUL Erection of implement shed (20' x 45') GRANT 24th October 1989

13/03401/COU Change of use of agricultural land to include the breeding of game birds

GRANT 13th December 2013

14/00603/DIS Discharge of Condition 3 (Management Plan) of Planning Permission

13/03401/COU for the change of use of agricultural land to include the breeding of game birds

DISAPP 16th April 2014

17/04950/FUL Change of use of agricultural land to land for breeding of game birds WDN 10th January 2018

18/00679/FUL Change of use of agricultural land to land for breeding of game birds GRANT  
20th July 2018

18/04130/DIS Discharge of Conditions 3, 4, 5, 6, 7 and 11 attached to planning permission  
18/00679/FUL for Change of use of agricultural land to land for breeding of game birds  
PCO

18/04131/VAR Variation of condition no. 8 attached to planning permission 18/00679/FUL to  
revise wording to read - The site shall be used for keeping game birds for no more than 17  
weeks in any calendar year with associated equipment (including but not limited to feedstuffs  
and water containers), but excluding the pens and feeders, removed from the land between 1st  
August and 1st January in any one calendar year. 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) Cllr R. Macey
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Local Member
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Cllr Karen Calder
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Appendices 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 20<sup>th</sup> July 2018 being the date of the original planning permission reference 18/00679/FUL. 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. Within 28 days of the date of this planning permission being granted the access, internal parking and vehicle turning shall be Implemented and fully surfaced in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the proper surfacing of the access to the site, to prevent mud and extraneous matter being brought out onto the public highway and to prevent any flood risk.

4. a) Within 28 days of the date of this planning permission, an Integrated Pest Management Plan for Invertebrates and Mammals shall be submitted for the written approval of the Local Planning Authority. The management plan shall include a survey and identification of the nature and extent of infestation, chemical and physical control techniques, environmental management, proofing, monitoring strategy, data recording and persons or companies relevant qualifications delivering the plan.

b) The approved Integrated Pest Control Plan shall be implemented within 28 days of written approval by the LPA and adhered to during the lifetime of the development and a site folder shall be maintained at all times and made available for inspection at any reasonable time.

Reason: To safeguard the amenities of residential properties in the local area.

5. Within 28 days of the date of this planning permission full details of soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') shall be submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. 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 upon written notification from the local planning authority 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 and to protect residential amenities of the area.

6. Within 28 days calendar months of the date of this planning permission the details of the container to be used for the storage of fallen stock shall be submitted to the Local Planning Authority for approval in writing. The approved storage container shall be provided on site at all

times when pheasants are being stocked on the site. Fallen stock shall be removed from pens within 24 hours.

Reason: to ensure that pests are not attracted to the area which could impact on the health and wellbeing of residents living in properties bordering the site.

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

8. The site shall be used for keeping game birds for no more than 17 weeks in any calendar year with associated equipment (including but not limited to feedstuffs and water containers), but excluding the pens and feeders, removed from the land between 1st August and 1st January in any one calendar year.

Reason: To protect the amenity of nearby residents.

9. The total number of game birds kept at the site shall be no more than 5,500 at any one time.

Reason: To protect the amenity of nearby residents.

10. No game bird pens shall be placed within 20metres of any residential curtilage and the buffer zone shown on drawing number RM\_004 Rev N received on the 8th June 2018 shall be permanently be kept clear of all structures and not used for any purpose in relation to the pheasant rearing business.

Reason: To protect the amenity of nearby residents.

11. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To ensure protection of the residential amenities of the surrounding area.

12. Any gates provided to close the proposed access shall be set a minimum distance of 15 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.





## Committee and Date

North Planning Committee

19<sup>th</sup> November 2018

## Item

7

Public

## Development Management Report

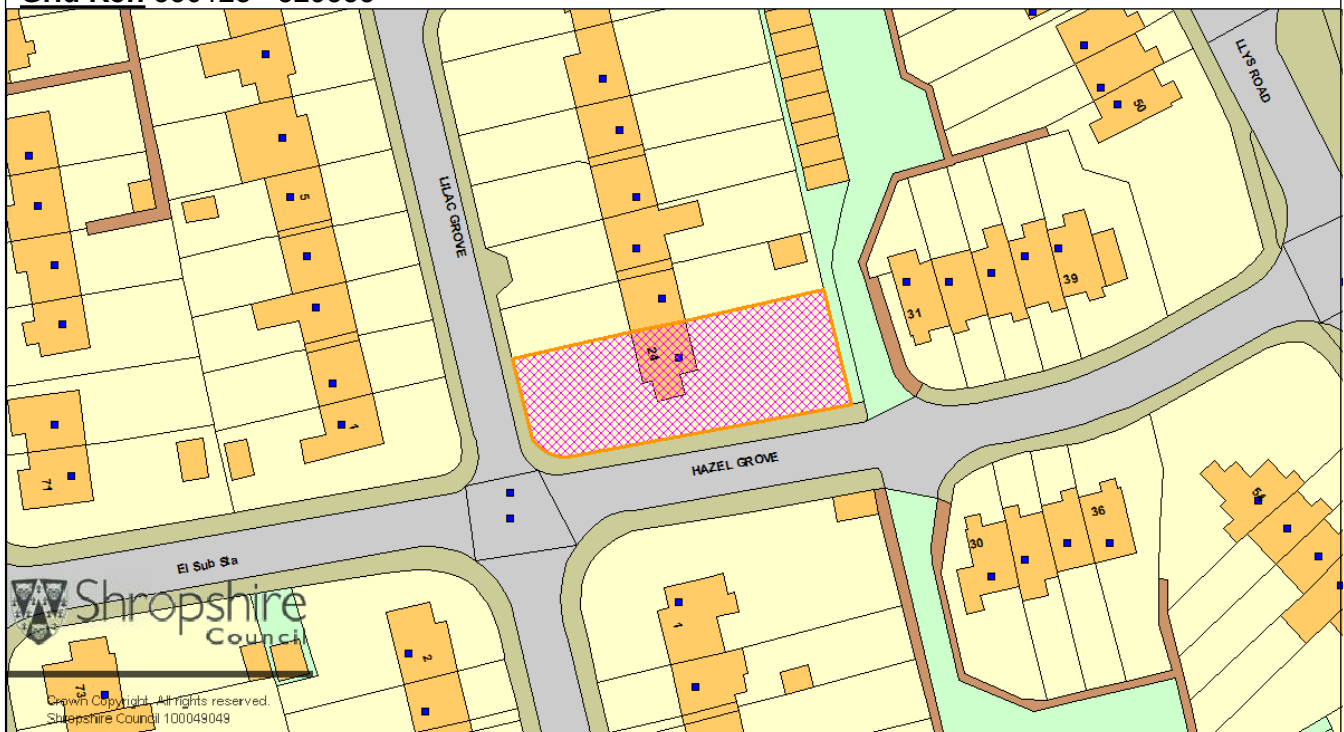
Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 18/04308/FUL	<b><u>Parish:</u></b>	Oswestry Town
<b><u>Proposal:</u></b> Erection of a single storey extension		
<b><u>Site Address:</u></b> 24 Lilac Grove Oswestry Shropshire SY11 2SD		
<b><u>Applicant:</u></b> Mr M Jones		
<b><u>Case Officer:</u></b> Melanie Durant	<b><u>email:</u></b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 330128 - 329333



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**Recommendation:- Approval subject to the conditions as set out in Appendix 1.**

Recommended Reason for Approval

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 Erection of a single storey extension.

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

2.1 The proposal relates to a two storey end of terrace dwelling within south Oswestry in a residential area constructed with red brick and brown tiles.

2.2 The nearest neighbour is the adjoining neighbour 23 Lilac Grove and is surrounded by residential properties.

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

3.1 The applicant is a Councillor for Shropshire and a Member of the North Planning Committee therefore in accordance with the Councils Scheme of Delegation, the application is required to be considered by the North Planning Committee.

### **4.0 Community Representations**

- Consultee Comments  
None received

- Public Comments  
None received

### **5.0 THE MAIN ISSUES**

- ☐ Principle of development
- ☐ Siting, scale and design of structure
- ☐ Visual impact and landscaping

### **6.0 OFFICER APPRAISAL**

#### **6.1 Principle of development**

6.1.1 The application is considered in the light of Core Strategy Policies CS6 (Sustainable Design and Development) and SAMDev Policy MD2 (Sustainable Design).

6.1.2 CS6 requires development to be designed to a high quality using sustainable design principles. It also seeks to ensure that development is appropriate in scale, density, pattern and design to its local context and has regard to residential and local amenity.

6.1.3 Policy MD2 of the Council's adopted SAMDev Plan similarly requires development to contribute to and respect local distinctive or valued character and existing amenity value.

6.1.4 The Supplementary Planning Document on the Type and Affordability of Housing (SPD) also sets out policies in connection with extensions to existing dwellings. The policy requires a mix of housing to be available whilst there is a need to maintain acceptable living standards for the occupants of dwellings including the internal size of living accommodation and the provision of external private amenity space. It is also commented that it is important to ensure that such development does not have unacceptable impact on neighbouring properties due to overshadowing or loss of privacy.

6.1.5 On the basis of the above, it is considered by Officers that there is no objection to the principle of the construction of extensions to the property. Other issues relating to scale, design, impact on neighbours etc will be discussed further in this report.

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

6.2.1 The proposal is for a small addition to the side of the property adding to an existing store to provide an enlarged kitchen area. Materials are described as matching brickwork with a flat roof system. A condition will be added to the decision notice requesting that the materials match this description.

6.2.2 The extension is considered to be acceptable in scale, design and use of materials proposed. The development would not be out of context with the original appearance of the dwelling and would provide additional living space, which is of a suitable scale and mass for its setting.

## **6.3 Visual impact and landscaping**

6.3.1 The extension is single storey and a minor addition to the property. It proposes a doorway and window which will all be focused on and access the owner's own curtilage. Therefore it is felt there will be no impact on neighbouring amenity caused by the proposal.

6.3.3 In addition, as mentioned the extension will only cover a minor area of the curtilage to the side of the property. Therefore it is felt that the extension would not have any adverse effect on the amenity currently enjoyed by the occupants of the property.

## **7.0 CONCLUSION**

The proposed extension is considered to be acceptable within the context of the overall street-scene and the proposed works are not considered to result in any significant implications for the residential amenity of existing properties. Therefore the proposal is deemed to comply with the relevant development plan policy framework laid down within CS6 of the Core Strategy and SAMDev Policy MD2 and is recommended for approval.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The

courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## **8.2 Human Rights**

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

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

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

## **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## **9.0 Financial Implications**

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

## **10. Background**

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

18/04308/FUL Erection of a single storey extension PCO

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member
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Cllr John Price Cllr Clare Aspinall
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Appendices 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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

3. The external materials shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

-



## Committee and Date

North Planning Committee

19<sup>th</sup> November 2018

## Item

8

Public

## Development Management Report

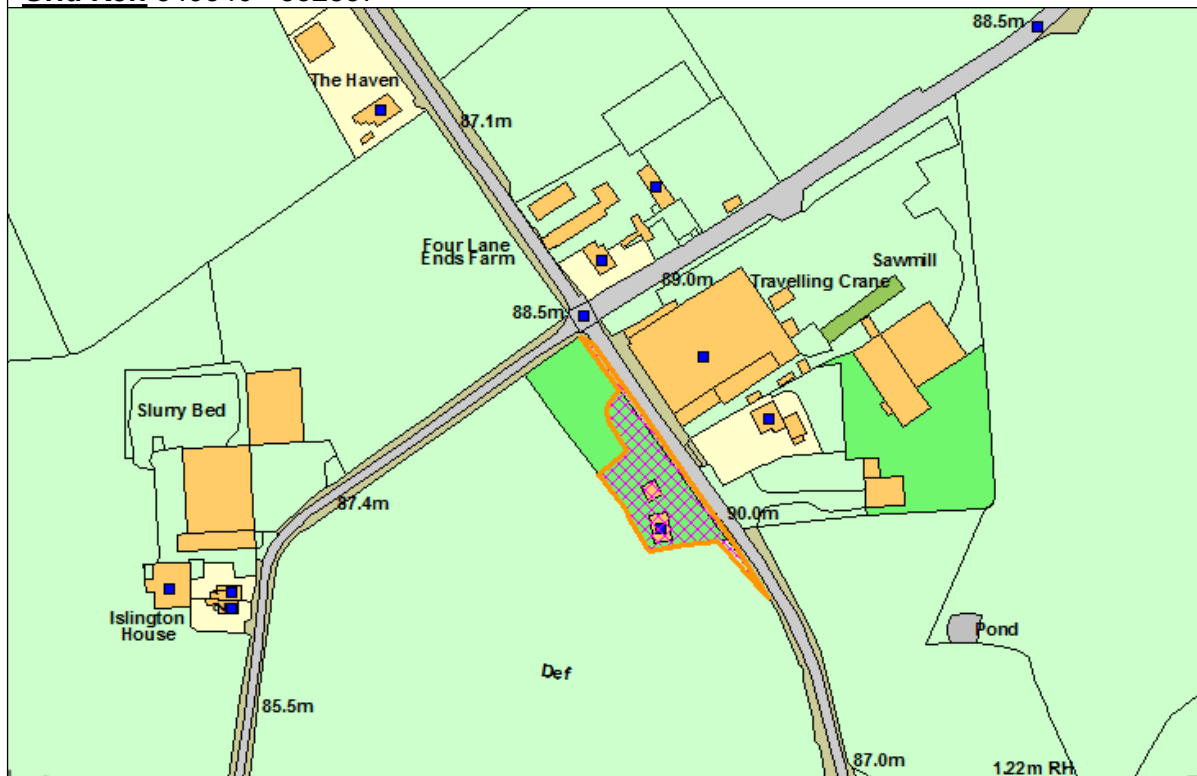
Responsible Officer: Tim Rogers

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> 18/02237/FUL	<b>Parish:</b>	Whixall
<b>Proposal:</b> Change of use of land and conversion of a show bungalow to residential dwelling and associated works (re-submission)		
<b>Site Address:</b> Proposed Dwelling Opposite Browns Of Wem Pool Head Wem Shropshire		
<b>Applicant:</b> C R M Marsh		
<b>Case Officer:</b> Sue Collins	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 349340 - 332857



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

## Recommended Reason for Approval

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

- 1.1 This application seeks planning permission for the change of use of land and for the conversion of a show bungalow to a residential dwelling. The proposal also includes other associated works including the creation of a vehicular access and a driveway to serve the property. Another building on the site is to be used as a garage.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located within an area of countryside as defined in SAMDev. Planning permission was granted in the 1960s for the construction of a number of buildings on this site to be used as show buildings. The bungalow and the garage building are all that remain and until about 12 months ago the site was very overgrown with no formal access to it.
- 2.2 The site stands opposite the business buildings of Browns of Wem. The highway passes to the east of the site and otherwise it is surrounded by agricultural land with no other buildings on this side of the highway.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council has objected to the proposal which is contrary to officer recommendation. The Chair and Vice-Chair in consultation with the Principal Planning Officer have considered that the site is in open countryside and detail in support appears vague. The proposal has also been brought to the attention of the Chair and Vice-Chair's attention and a site visit is required in order to give adequate consideration.

**4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online****4.1 Consultee Comments****4.1.1 Parish Council:**

Response Received 8<sup>th</sup> October 2018

The proposed development is contrary to Whixall's Open Countryside designation.

Response Received 29<sup>th</sup> August 2018

In the light of the recent changes to Government policy Whixall Parish Council now wishes to remove its objection to the above planning application.

Response Received 2<sup>nd</sup> July 2018

The proposed development is contrary to Whixall's Open Countryside designation.

- 4.1.2 **Affordable Housing:** We note that the applicant has stated they will pay an affordable housing contribution and a proforma should be submitted.



- 4.1.3 **Highways:** No objection – subject to the development being constructed in accordance with the approved details and the following conditions and informative notes.

Observations/Comments:

The application is seeking approval for the change of use of a show bungalow into a residential dwelling. The current application follows on from the relatively recently refused application under reference 17/05492/FUL.

The revised Visibility Splay Plan (Drawing No. Sa 28045/04) has been resubmitted and a revised Block Plan (Drawing No. Sa 28045/03 Rev D) to reflect the proposed revisions to the proposal in relation to the new application.

The visibility splay provision, access arrangement and parking are considered to be acceptable in principle for the development proposed and the prevailing highway conditions. The proposed gate position into the site has not however been shown and if intended should be set back a minimum distance of 5 metres from the adjoining carriageway edge and hung to open into the site.

Based upon the information contained within the above submitted statement it is considered that, subject to the recommended conditions being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

- 4.1.4 **Regulatory Services:** No objection

There is no objection regarding the application however it is recommended that attention is given to ensuring that glazing with substantial noise attenuation properties is provided to ensure noise from nearby commercial activities to the east/northeast do not have an unacceptable detrimental impact on the health and wellbeing of future residents.

- 4.1.5 **Drainage:** No objection.

## 4.2 **Public Comments**

- 4.2.1 No letters of representation have been received.

## 5.0 **THE MAIN ISSUES**

- ☐ Principle of Development
- ☐ Affordable Housing
- ☐ Design, Scale and Character
- ☐ Impact on Residential Amenity
- ☐ Drainage

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Policy & 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 Parish Council has objected to the principle of the development as they consider that the development is contrary to adopted policy.

6.1.3 The previous application reference 17/05492/FUL for the change of use of the building and land was refused for the following reasons:

1. The building is not considered to be of any historic or local significance and as such it is considered that conversion to residential use does not comply with Shropshire Core Strategy policies CS5, CS6, CS17 and SAMDev policies MD2, MD7a and Shropshire Supplementary Planning Document: Type and Affordability of Housing SPD in relation to conversions of rural buildings as heritage assets, as well as the overall aims and objectives of the National Planning Policy Framework.

2. The proposal was for an unencumbered dwelling and no information has been provided to demonstrate that the future residents of the proposed dwelling would have residential amenity protection from the neighbouring business land use. As such their residential amenity cannot be ensured. This is contrary to policy CS6 of the Shropshire Core Strategy.

6.1.4 The building that is in question was constructed in the 1960's as a show home on this parcel of land along with a number of other buildings to showcase the products offered by Browns of Wem at that time. Subsequently most buildings have been removed leaving only the bungalow and garage on the site. The proposal is for the conversion of the existing bungalow show home to a permanent dwelling. In accordance with detail submitted in support of the application the proposal does not require any structural alterations to the building and a structural survey has been provided with the application that demonstrates the building is structurally sound. While some works are required such as new windows and doors etc, these are merely functional and decorative rather than structural.

6.1.5 The Local Plan Policies have not changed since the determination of the previous application. However, a new National Planning Policy Framework has been adopted by Government and has made subtle changes to the wording of the paragraph relating to development in the countryside. Previously para 55 referred to promoting sustainable development in rural areas which enhanced or maintained the vitality of rural communities. It then continued to indicate the new isolated housing in the countryside should be avoided unless there are special circumstances which it then lists. The new NPPF paragraph 79 states that planning decision should avoid the development of isolated homes in the countryside unless one or more of the circumstances apply. In this case the proposal would be the re-use of a redundant or disused building and enhance its immediate setting.

6.1.6 In terms of sustainability the following comments are made:

Environment

The building is already constructed and therefore no construction works are required and it will have very little impact on the landscape. A condition is to be included to prevent any extensions to the building without planning permission to ensure it is kept to a small, more affordable size. The site will be enhanced

through the future landscaping of the area and the refurbishment of the building.

#### Social

Whixall has a very active social community and it is only a short drive to facilities within Wem, Tilstock, Prees and Whitchurch. More residents in the area could give potential for these to continue in the future.

#### Economic

As this is a small building with limited space, it is unlikely that the future occupiers would have a significant benefit to the economy.

#### Overview

On balance the proposed benefits for the development outweigh the potential harm that could be caused as a result of the conversion of the show home to a dwelling. As such the proposal would be considered to be sustainable.

- 6.1.7 The applicant has stated within the application that they will pay an affordable housing contribution. While this would be beneficial to help towards the Council providing affordable housing, it is not a policy requirement of this development and therefore has no influence over the decision of the application.
- 6.1.8 This is a very unusual application where to all intents and purposes the building has been constructed as a dwelling but without the final fittings. Its design and age does not meet the criteria in policies CS5 and MD7a for being considered a heritage asset and as such its conversion would not comply with locally adopted policies. However on 24<sup>th</sup> July 2018 the Government issued the new National Planning Policy Framework (NPPF). Para 79 of the new document recommends that isolated new homes should be avoided but at the same time it promotes the re-use of redundant or dis-used buildings. This has to be taken into account as a material planning consideration of the application. A structural survey has been provided with the application which identifies that the building is structurally sound and only minor renovations works will be required to the external appearance such as replacement doors and windows. As such the building is not being changed in its overall design and scale. At present the Government is pushing for the re-use of buildings for residential purposes and this is clearly evident from the changes in permitted development for the conversion of agricultural buildings, offices etc in to dwellings and the overall emphasis in the new NPPF. In this case there is an existing building which has been on site since the late 1960's, does not have a significant detrimental impact on the landscape and through its conversion would provide a relatively small dwelling in this area. A condition is recommended for inclusion on any planning permission granted which would remove permitted development rights for extensions to be added. This will help maintain the property as relatively small to help provide a mix of dwellings in the area.
- 6.1.9 On balance it is considered that there is a sustainable benefit as a result of the proposal in terms of its sustainability. As such while the proposal is in the opinion of officers is contrary to policy CS5 and MD7a and the Supplementary Planning Document on the Type and Affordability of Housing (SPD), it is in accordance with the new NPPF and would be considered a sustainable proposal.
- 6.1.10 There could be a concern that in the future a replacement dwelling could be

sought for the site. It is extremely unlikely that such a proposition would be supported by Officers as this is a conversion of an existing building, where evidence has been provided to demonstrate it is capable of conversion.

## **6.2 Design, Scale and Character**

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. 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. In addition to this policy CS5 of the Shropshire Core Strategy together with the SPD are relevant policies against which this proposal must be assessed.

6.2.2 In addition policy MD2 of SAMDev builds on policy CS6 and deals with the issue of sustainable design.

6.2.3 The proposed dwelling would comprise a kitchen, dining/living room, two bedrooms and a bathroom totally approximately 82 square metres. It is indicated in the Structural Survey that the building is structurally sound and capable of being renovated. The small size of the building will ensure that this complies with adopted local policy and the NPPF in providing a mix of dwelling sizes. The Case Officer has been advised that there are people on the housing register looking for smaller, affordable dwellings but with a minimum of three bedrooms and as such the dwelling would not meet the requirements of those on the list but would represent an opportunity for someone to buy a smaller property. In order to ensure that the building remains a smaller dwelling to maintain a mix within the area, a condition will be imposed removing permitted development rights for extensions.

6.2.4 Some alterations are to be made to the external appearance of the building in the installation of the full height windows to the east elevation. Otherwise the only external change will be the installation of new doors and windows. Any other external repairs will be carried out in materials to match the existing building.

6.2.5 From the above it is considered that this is an opportunity to provide a smaller dwelling in this rural location where a condition can ensure that any further development can be controlled. As such it will be in accordance with the NPPF, policies CS5, CS6, and MD2, and the SPD of the Shropshire LDF.

## **6.3 Impact on Residential Amenity**

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

6.3.2 As previously indicated in this report, there are no other residential properties in the vicinity that would be affected by the proposal.

6.3.3 However, the premises is within very close of the business premises of Browns of Wem. A noise report has been provided with the application and no objection has been raised by the Regulatory Services Officer. However, they have advised that attention be given to ensuring that glazing with substantial noise attenuation properties be installed. This is in order to protect the further health and wellbeing of future residents. The applicant is also advised that any statutory noise nuisance complaint would have to be investigated which may impact on the future operation of the business.

6.3.4 On the basis of the above no objection is raised by officers to the proposal in terms of the potential impact on residential amenities of the area.

#### 6.4 **Highways**

6.4.1 The proposal indicates a new vehicular access is to be created with a driveway leading to the garage and providing 3 parking spaces. The plans also demonstrate the amount of visibility splay that can be provided.

6.4.2 No objection to the proposal has been raised by the Council's Highways Development Control Officer, subject to the inclusion of the recommended conditions on any planning permission that may be granted. These are to ensure that the visibility splays, parking areas and access apron are installed prior to any occupation and thereafter maintained. A further condition has been recommended to ensure that any access gates are installed a minimum distance of metres from the carriageway to ensure there is no obstruction to the free flow of traffic.

6.4.3 Overall in view of the above, it is the Case Officer's opinion that no objection is raised to the proposed access and parking arrangements.

#### 6.5 **Drainage**

6.5.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.

6.5.2 In this case no objection has been raised to the proposed development by the Council's Drainage Engineer. Therefore it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

### 7.0 **CONCLUSION**

7.1 This is an unusual case where there is an existing building that was constructed as a show home in the 1960s. Evidence has been submitted to indicate the building is structurally sound and could be renovated to create a small 2 bedroom bungalow. While considered by officers to be contrary to policies CS5, MD7a and the SPD as it is not a heritage asset, the new NPPF para 79 supports the principle of re-using existing buildings in rural areas where they comply with the list of special circumstances. It will also provide a small property to balance more the larger ones in the Whixall/ Wem Rural area providing the mix required by the SPD. On balance it is considered by officers that the proposal will meet the policies of the NPPF and policies CS6, CS18 and MD2 of the Shropshire Core Strategy together with elements of the SPD.

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 paragraph 38 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 - written representations, a hearing or inquiry.
- ☐ The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## **9.0 FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into

account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

18/02237/FUL Change of use of land and conversion of a show bungalow to residential dwelling and associated works (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 Pauline Dee
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Cllr Chris Mellings
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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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

3. The visibility splays shown on Visibility Plan Drawing No. SA28045/04 shall be set out in accordance with the splay lines shown. Any retained hedge, or replacement hedge planting should be at least 1 metre behind the visibility splay lines. The visibility splays shall be fully implemented in accordance with the approved details prior to the dwelling being occupied and shall thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the access in both directions along the highway in the interests of highway safety.

4. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Block Plan Drawing No. Sa 28045/03 Rev D prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

5. The access apron shall be constructed in accordance with the Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety

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

6. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

7. 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, B, C, D and E shall be erected, constructed or carried out.



Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

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## Committee and Date

North Planning Committee

19<sup>th</sup> November 2018

## Item

9

Public

## Development Management Report

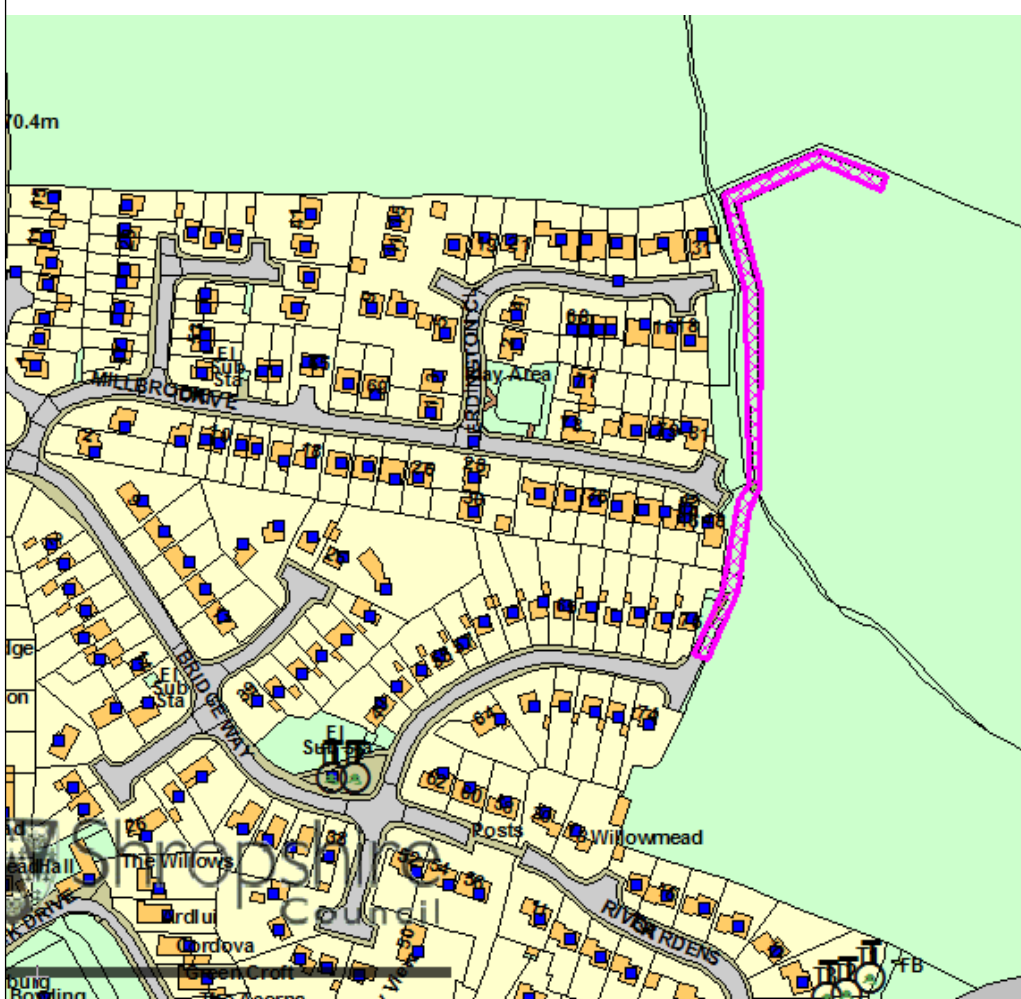
Responsible Officer: Tim Rogers

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> 18/03983/FUL	<b>Parish:</b>	Shawbury
<b>Proposal:</b> Application under Section 73A of the Town & Country Planning Act 1990 for the extension and resurfacing of an agricultural field access track.		
<b>Site Address:</b> Land East Of Erdington Close Shawbury Shropshire		
<b>Applicant:</b> Mr P Davies		
<b>Case Officer:</b> Alison Groom	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 356061 - 321629



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

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This is an Application under Section 73A of the Town & Country Planning Act 1990 for the extension and resurfacing of an agricultural field access track.

The development did originally include the erection of an agricultural storage building, however following the feedback from the committee agenda setting meeting, the applicant has removed the building from the proposed development. Therefore this application is to consider and regularise the works to the field track only.

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

- 2.1 The access track to which this application relates is located north of the A53 in Shawbury to the east of a residential housing estate, The agricultural land is accessed off Bridge Way. The field track is located on agricultural land, the land measures circa 15 acres (6.22ha) and is within the village of Shawbury.
- 2.2 The site is accessed from an existing field gated access off Bridge Way. Bridge Way forms part of a residential housing estate to the west of the track.

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

- 3.1 The Officers recommendation is contrary to the Parish Councils objections, the Committee Chair felt it necessary for the application to be heard at the planning committee meeting to ensure the concerns of local residents are considered further.

### **4.0 Community Representations**

#### **4.1 Consultee Comments**

- 4.1.1 SC Drainage  
No objections Informative recommended
- 4.1.2 Ecology  
No Objections – Informatives recommended
- 4.1.3 Highways  
No objections – Informatives recommended
- 4.1.4 Regulatory Services  
No objections - Conditions recommended
- 4.1.5 Rights of Way Team  
No comments to make on this application
- 4.1.6 Severn Trent Water  
No objections – conditions recommended

**4.2 Public Comments**

4.2.1 A site notice has been displayed on the site from the 11.09.2018.

4.2.2 Neighbouring Representations x 28

- Highway traffic increase / concerns
- Highway safety concerns for residents and children
- Farming traffic currently leave mud on the road way causing an unsafe highway
- Farming traffic causes damage to the highway
- Loss of privacy (no:31 Erdington Close)
- General use of building is too vague
- Flood risk concerns
- No access to be allowed before 10-00 am or after 3-00 pm
- Fire risk
- Access track not suitable for emergency vehicles

Highway safety and flood risk concerned have been fully considered and are detailed in the report below.

4.2.3 **Parish Council**

Shawbury Parish Council – Object

Members are united in their opposition to this application as access to the site would be through Bridgeway, which is a quiet and relatively safe residential area with narrow roads and where there is a well-used children's play area for those under ten years of age.

Already due to the nature of the estate many cars are parked on the road outside properties making access difficult at times.

Construction of the building would lead to large vehicles accessing the site and once completed would see large farm tractors and trailers constantly travelling through this residential area which is completely unsuitable for this type of transport and raises serious concerns about the safety of residents and particularly to young children going to and from school and using the play area.

Members urge the Planning Department to refuse this application.

4.2.4 The site is agricultural land with two existing field accesses, the concerns of the local residence & the Parish Council have been noted, and officers acknowledge that as it stands the owner of the site is free to maintain his land via the existing accesses without any control measures or restrictions in place.

The public protection and highways team raise no objections to the application

The objections raised by the local residents and the Parish Council relate to issues surrounding the site currently, some of which are beyond the applicants control. (i.e. residence parking on the footpath, children playing on the estate road)

If approved it will give the Local Authority the opportunity to put in place control measures with regards to the time in which the access track can be used.

Any future developments proposed on the site will be assessed on their individual merits at that time and review of the potential highway implications and means of access thereto.

**5.0 THE MAIN ISSUES**

Principle of development  
 Siting, Scale and Visual Impact  
 Drainage  
 Impact to Surrounding Amenity / Highway

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

- 6.1.1 This is an Application under Section 73A of the Town & Country Planning Act 1990 for the extension and resurfacing of an agricultural field access track. The remainder of the agricultural field is grass land, as grass land, it is used for the grazing of sheep and the mowing and production of hay.

The development did originally include the erection of an agricultural storage building, however following the feedback from the committee agenda setting meeting, the applicant has removed the building from the proposed development. Therefore this application is to consider and regularise the works to the field track only.

- 6.1.2 Policy CS5 of the Shropshire Core Strategy: 'Countryside and Green Belt' provides that new developments will be strictly controlled in accordance with national planning policies that protect both the countryside and green belt. Agricultural developments will be required to demonstrate that there will be no adverse impacts upon the environment.

- 6.1.3 Policy MD7b: General Management of Development in the Countryside of the SAMDev Plan states that further to the considerations set out by Core Strategy Policy CS5:

- Proposals for the replacement of buildings which contribute to the local distinctiveness, landscape character and historic environment, will be resisted unless they are in accordance with Policies MD2 and MD13. Any negative impacts associated with the potential loss of these buildings, will be weighed with the need for the replacement of damaged, substandard and inappropriate structures and the benefits of facilitating appropriate rural economic development.
- Planning applications for agricultural development will be permitted where it can be demonstrated that the development is:
  - a) of a size/ scale and type which is consistent with its required agricultural purpose and the nature of the agricultural enterprise or business that it is intended to serve;
  - b) Well designed and located in line with CS6 and MD2 and where possible, sited so that it is functionally and physically closely related to existing farm buildings; and,
  - c) There will be no unacceptable impacts on environmental quality and existing residential amenity.

- 6.1.4 Policy CS13 of the Shropshire Core Strategy: 'Economic Development, Enterprise and Employment' states that Shropshire Council and its partners will plan positively

to develop and diversify the economy by supporting enterprise and seeking to deliver sustainable economic growth and prosperous communities. This will occur by recognising the continued importance of its rural areas, for food production and supporting rural enterprise and diversification of the economy.

- 6.1.5 Policy CS17 of the Shropshire Core Strategy: 'Environmental Networks' requires that all development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment.
- 6.1.6 The principle of works for agricultural purposes in the countryside is accepted under the Shropshire Core Strategy policy CS5, CS13 and CS17 and MD7b of the SAMDev Plan, subject to the proposal being of an appropriate scale and design, as required by policy CS6 and MD2 which are detailed below.

## **6.2 Siting, Scale and Visual Impact**

- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.2.2 Further to Policy CS6, SAMDev MD2: 'Sustainable Design' requires developments to achieve local aspirations for design in terms of visual appearance and functionality. Proposals need to respond appropriately to the form and layout of the existing development including a mixture of uses, streetscapes plot sizes, scale and density that reflect locally characteristic architectural design and details which enhance, respect and restore the local context and character.
- 6.2.3 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 15 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.

Policy MD12: The Natural Environment of the SAMDev Plan states that in accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved by:

Ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following:

- i. the special qualities of the Shropshire Hills AONB;
- ii. locally designated biodiversity and geological sites;
- iii. priority species;

- iv. priority habitats
- v. important woodlands, trees and hedges;
- vi. ecological networks
- vii. geological assets;
- viii. visual amenity;
- ix. landscape character and local distinctiveness.

will only be permitted if it can be clearly demonstrated that:

- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;
  - b) the social or economic benefits of the proposal outweigh the harm to the asset.
- In all cases, a hierarchy of mitigation then compensation measures will be sought

- 6.2.4 The fields existing access points are located to the western boundary of the parcel of land, no alterations are proposed to the access points. The applicant has clarified that the initial part of the track (approximately 6 metres) within the field on the submitted plan was existing and has been in place for some time, he then resurface and extended the track further into the land in May 2018, this was provide a safe and more efficient route for the movement of machinery, in to and out of the site. The track has been laid with a 300mm layer of 80mm down clean compacted aggregate (rock). The average width of the track is 3.9 metres wide, increasing to approximately 9 metres wide at two points to allow machinery to manoeuvre safely. The field is used for agricultural purposes only and public access is not permitted.

The field is bounded by a well-established native hedgerow and trees, which remain unaffected by the proposed works. The track remain level with the existing ground surface and runs alongside the existing well established boundary landscaping, the track extends into the field away from public access and public view points. Some of the residential properties to the west will have view of the track from the first floor of their private residents.

- 6.2.5 Due to the scale, siting and the natural landscape features, the proposal would not be visually intrusive and would relate well to the existing land use and access point, ensuring minimal loss of countryside land. Following consultation with the Ecologist no concerns or objections have been raised against the proposal, the advice provided by the Ecology officer will be applied to the decision as informatives.

### **6.3 Drainage**

- 6.3.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.3.2 The site will be drained via a soakaway. Due to the principle of the development, the site location and the substantial surrounding land it is clear that the site can provide sustainable drainage and following consultation with Shropshire Council Drainage team no objections have been raised and an informative will be issued with the approval to provide guidance to the applicant with reference to Surface Water Management.

Severn Trent Water also raise no objections to the proposals subject to the inclusion of the following condition:



- The development hereby permitted should not commence until drainage plans for the disposal of surface water flows have been submitted to and approved by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details. This is to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

#### **6.4 Impact to Surrounding Amenity / Highway**

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

Further to Policy CS6, Policy MD2: Sustainable Design of the SAMDev Plan for a development proposal to be considered acceptable it is required to:

- Contribute to and respect locally distinctive or valued character and existing amenity

6.4.2 SAMDev Policy MD2: 'Sustainable Design' also states that development must be designed in such a way as to not result in an unacceptable adverse impact on local infrastructure, for example adequate onsite car parking should be incorporated within a development site to ensure that cars do not overspill onto surrounding roads and therefore negatively impacting on the local road network.

6.4.3 The development is seeking to extend and resurface the existing track within the agricultural land, no new access is required, the existing farm access off Bridge Way will be utilised. This access is already utilised by a farm vehicles, and is constructed of compacted aggregate. The access track is to support the maintenance and running of the grass land and will help significantly reduce the mud transported onto the public highway.

6.4.4 Based upon the information provided within the submission of the application subject to the following condition being included on any approval, there are no sustainable Highway grounds upon which to base an objection. Any future developments proposed on the site will be assessed on their individual merits at that time and review of the potential highway implications and means of access thereto.

6.4.5 The World Health Organisation has published Guidelines on Community Noise 1990. This document provides target levels for noise within the boundary of a residential properties curtilage. To avoid sleep disturbance, indoor guideline values for bedrooms at night (23:00-07:00) are 30 dB LAeq for continuous noise and 45 dB LAmx for single sound events.

The noise level from agricultural machinery travelling along Bridge Way is likely to

exceed these recommended levels. Therefore it is recommend that conditions are imposed to restrict the times of vehicle movements along Bridge Way. If the restricted hours of operation are not acceptable the applicant will need to provide a noise report specifying the predicted noise levels and detailing any mitigation measures required to reduce to a minimum any adverse impacts on health and quality of life arising from noise from the proposal. Therefore the following condition will be applied in the Decision if permission is granted

1. No agricultural machinery shall be moved along the access track between 2300 -0700 hours.  
Reason: To protect residential amenity, health and wellbeing.

6.5.6 The site is agricultural land with two existing field accesses, the concerns of the local residence have been noted. Currently the owner of the site is free to maintain his land via the existing access without any control measures or restrictions in place. The applicant has clearly stated that the access track is to support the running and maintenance of the agricultural land. The extended and resurfaced track will provide a safe route in and out of the site for the agricultural machinery and will also help significantly reduce the mud transported onto the public highway.

If approved this application will give the Local Authority the opportunity to put in place control measures with regards to the time in which the access track can be used.

## **7.0 CONCLUSION**

7.1 The proposed development for the extension and resurfacing of the existing field track, is considered to be reasonably necessary for the purposes of agriculture. Due to the scale, siting and the natural landscape features, the proposal would not be visually intrusive and would relate well to the existing land use and access point, ensuring minimal loss of countryside land. The siting, scale and appearance will not result in any adverse visual impacts to the surroundings, further to reducing the noise impact on nearby neighbouring residents. Therefore subject to the condition as detailed within section 6.5.5 the proposal is compliant with all relevant policies in the Shropshire Core Strategy, the SAMDev Plan and 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

NS/04/01098/OUT Erection of 24 residential dwellings REFUSE 2nd December 2004

NS/05/01340/OUT Residential development comprising of 27 dwellings CONAPP 25th July 2006

NS/06/00848/ENQ Residential development site REC

NS/06/01879/FUL Approval of Reserved Matters (siting, design, landscaping and access) for the residential development of 27no. Units (N/05/778/SY/240 Outline) granted 25.07.05  
CONAPP 10th November 2006

NS/06/02637/DOC Discharge of conditions 4,11,13,14,15 and 16 REC

NS/07/00089/DOC Discharge of Condition No. 6 attached to N/06/803/SY/240A ~ Roof Tile Schedule REC

NS/07/00539/FUL Substitution of House Types on Plots 1-8, 13-15, 18, 23-26, modification to previously approved N/05/778/SY/240 NPW 28th March 2007

NS/07/00891/DOC Discharge of Conditions REC

NS/07/02310/DOC Discharge of Condition ref: Landscaping REC

18/03983/FUL Application under Section 73A of the Town & Country Planning Act 1990 the formation of a field access track PCO

NS/97/00610/FUL LAND OFF MILLBROOK DRIVE SHAWBURY

ERECTION OF 22 DETACHED DWELLINGS WITH

PRIVATE GARAGES AND FORMATION OF NEW

VEHICULAR AND PEDESTRIAN ACCESSES REFUS 28th August 1997

NS/98/00630/FUL LAND OFF MILLBROOK DRIVE SHAWBURY

ERECTION OF 20 DWELLINGS WITH PRIVATE GARAGES

AND FORMATION OF ESTATE ROADS, VEHICULAR AND

PEDESTRIAN ACCESSES REFUS 8th April 1998

## 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 Simon Jones

Appendices

APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)****CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

0. The development hereby permitted should not commence until drainage plans for the disposal of surface water flows have been submitted to and approved by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

**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**

0. The storage of agricultural machinery and ancillary items within the agricultural building hereby approved shall be used solely in connection with the land holding as identified by the blue line as shown on the Location Plan (Drawing No. PD\_001 Rev A) published on 18.10.2018.

Reason: In the interests of highway safety.

0. The hereby approved agricultural storage building, shall not be used at any time to house livestock.

Reason: To protect residential amenity, health and wellbeing.

0. No agricultural machinery shall be moved along the access track between 2300 -0700 hours.

Reason: To protect residential amenity, health and wellbeing.

**Informatives****1. Surface Water Drainage Informative**

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable

## 2. 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).

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

Sophie Milburn, Assistant Biodiversity Officer, [sophie.milburn@shropshire.gov.uk](mailto:sophie.milburn@shropshire.gov.uk), Tel.: 01743 254765

### 3. 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.

### Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

4. Severn Trent Water advise that there may be a public sewer located within the application site, although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

-





Committee and Date

North Planning Committee

19<sup>th</sup> November 2018

Item

**10**

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 AS AT COMMITTEE: 19<sup>TH</sup> NOVEMBER 2018

**Appeals Lodged**

<b>LPA reference</b>	18/02676/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Muckleton Developments Ltd – C/O Ken Humpherson
<b>Proposal</b>	Erection of 1No dwelling and garage
<b>Location</b>	Proposed Dwelling To The South Of Hazles Road Shawbury
<b>Date of appeal</b>	16.10.18
<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>	18/02667/REF – 17/05320/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs W Edge – C/O Mr Martin Parish
<b>Proposal</b>	Erection of a single storey rear extension
<b>Location</b>	Toad Hall Abbeygreen Whixall
<b>Date of appeal</b>	20.08.18
<b>Appeal method</b>	Fast Track Appeal
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.10.18
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	18/00201/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr J Clay
<b>Proposal</b>	Erection of one dwelling
<b>Location</b>	Land adjoining Crickett Cottage, Perth, Ellesmere
<b>Date of appeal</b>	8.8.2018
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	2 October 2018
<b>Date of appeal decision</b>	30 October 2018
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	17/05911/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Gregory
<b>Proposal</b>	Erection of detached two-storey dwelling re-designed on existing foundations; formation of vehicular access; installation of sewage treatment plant
<b>Location</b>	Land To The West Of Bridgewater Close Harmer Hill Shropshire
<b>Date of appeal</b>	08.08.2018
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	02.10.2018
<b>Date of appeal decision</b>	31.10.2018
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	18/01491/FUL
<b>Appeal against</b>	Refusla
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs Heather Bond
<b>Proposal</b>	Erection of garage with first floor study over following removal of existing shed
<b>Location</b>	4 Pant Glas, Oswestry, Shropshire
<b>Date of appeal</b>	20.08.2018
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.10.2018
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

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## Appeal Decision

Site visit made on 26 September 2018

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

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

**Decision date: 16<sup>th</sup> October 2018**

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**Appeal Ref: APP/L3245/D/18/3206777**

**Toad Hall, Abbey Green, Whixall SY13 2PT**

- 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 Mrs Wendy Edge against the decision of Shropshire Council.
  - The application Ref 17/05320/FUL, dated 1 November 2017, was refused by notice dated 22 June 2018.
  - The development proposed is the erection of a single storey extension.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey extension at Toad Hall, Abbey Green, Whixall SY13 2PT in accordance with the terms of the application, Ref 17/05320/FUL, dated 1 November 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: THW/PP/01; THW/PP/02; THW/PP/11; THW/PP/12; THW/PP/13; THW/PP/14; THW/PP/21; THW/PP/22 Rev D; THW/PP/23 Rev D; THW/PP/24 Rev D and THW/PP/25 Rev D.
  - 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

### Procedural Matters

2. Since the appeal was lodged the revised National Planning Policy Framework (the Framework) has been published but does not raise any additional matters. For clarity, the site address has been adopted from the appeal form.

### Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the host property and the surrounding area.

### Reasons

4. The appeal property is a former agricultural building of brick and slate construction which has been converted to residential use. The property is sited

adjacent to a large altered dwelling with rendered walls which appears to be in general residential use rather than being occupied as a farmhouse. The land associated with both the property and the dwelling is domestic in character comprising landscaped gardens and parking areas. Beyond the residential curtilages the fields are used for arable crops and grazing, including horses. There is an extended outbuilding associated with the property which is used for storage purposes.

5. The Council consider that the property is a non-designated heritage asset. The Framework identifies that the effect of a proposal on a non-designated heritage asset should be taken into account in the determination of this appeal and a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. Policies CS6 and CS17 of the Core Strategy (CS) and Policies MD2 and MD13 of the Site Allocations and Management of Development Plan (SAMDev) require development to protect and enhance the built environment and historic assets.
6. Based upon the evidence available, the non-heritage asset designation is associated with the appeal property being part of a former farmstead and this contributes to the wider character of the surrounding open countryside. However, the appellant's Heritage Impact Assessment (HIA) refers to the various changes which have occurred to the built forms of development associated with the former farmstead, including the property originally being a separate entity.
7. From what was observed during the site visit, the dwelling, property and outbuilding and their curtilages have been altered and this group of buildings now possesses a predominantly domestic, rather than agricultural, character and appearance. There is also a marked difference between the appearance of the dwelling and the property because of the external materials.
8. Although some of the physical relationship between the buildings remains, the various alterations have impacted on what might have been a visually more cohesive character and appearance associated with the former farmstead. The heritage value of both the former farmstead and the property has been diluted and, for this reason, I concur with the appellant's HIA that the significance of the property as a non-designated heritage asset is low. However, there is still a requirement to assess the effect of the appeal scheme on the non-designated heritage asset.
9. The proposed development includes the erection of a single storey extension which would project from the side elevation of the property onto a paved patio area. The Council claims that the proposed extension would be an overly contrived design. Although of a different design, the general form of the proposed mono-pitched extension would be similar to the outbuilding's addition.
10. There would be a glazed link between the property and the main part of the extension. Further, the walls of the main element of the appeal scheme would be predominantly glazed. By reason of the glazed link and walls, the design and scale of the proposed extension would not visually or physically dominate the character or appearance of the property. The property would not be subsumed by the proposed extension.

11. The appearance of the property would change but not to such an extent that its already diluted heritage significance would be unacceptably harmed. Further, by reason of siting, the appeal scheme would not be a visually prominent addition to the property when viewed from the adjoining dwelling and its curtilage. The current visual and physical relationship between the property and the dwelling would remain unaltered. For these reasons, there would be no unacceptable harm caused to the contribution of the extended property to the heritage significance of the former farmstead.
12. Accordingly, it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the host property and the surrounding area and, as such, it would not conflict with CS Policies CS6 and CS17 and SAMDev Policies MD2 and MD13. In addition to protecting the historic environment and heritage assets, these policies also require development to be of a high quality of design and to protect, preserve and enhance built environments by considering local context.

### **Conditions**

13. The Council has suggested several conditions in the event this appeal succeeds and they have been assessed against the tests in the Framework and the Planning Practice Guidance. For reasons of proper planning and the avoidance of doubt, it is necessary that the proposed development should be erected in accordance with the submitted drawings. To ensure that the proposed extension remains sympathetic and subservient to the host property as an on designated heritage asset, it is necessary for the external materials to be approved by the Council. The appellant has agreed to this pre-commencement condition. Accordingly, and having regard to all other matters, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR

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## Appeal Decision

Site visit made on 2 October 2018

**by M Savage BSc (Hons) MCD MRTPI**

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

**Decision date: 30 October 2018**

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**Appeal Ref: APP/L3245/W/18/3205159**

**Land adjoining Crickett Cottage, Perth, Ellesmere SY12 9HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr John Clay against the decision of Shropshire Council.
  - The application Ref 18/00201/OUT, dated 12 January 2018, was refused by notice dated 12 March 2018.
  - The development proposed is erection of one dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at land adjoining Crickett Cottage, Perth, Ellesmere SY12 9HY, in accordance with the terms of the application, Ref 18/00201/OUT, dated 12 January 2018, subject to the conditions in the attached schedule.

### Procedural Matters

2. The application was submitted in outline with all matters reserved and I have considered the appeal on this basis.

### Main Issue

3. Whether the appeal site would constitute infill development in the settlement of Perth and would therefore be an appropriate location for the proposed development having regard to local and national policy.

### Reasons

4. The appeal site comprises agricultural land between Cricket Cottage and Bridge Cottage within Perth, a settlement which is characterised by disparate clusters of dwellings with undeveloped gaps. Beyond Cricket Cottage the road bends sharply as it leaves Perth, giving a clear sense that you are leaving the settlement.
5. The appeal site is located within a small cluster, to the north of a disused railway line. The bridge over the railway line maintains the physical and visual connection between this cluster and those to the south. Whilst I note that there is some dispute between interested parties as to whether the appeal site is located in Crickett or Perth, the Council has confirmed that they consider it is within Perth and I have dealt with the appeal on this basis.
6. The Indicative Site Plan shows that the dwelling would be set back from the highway, though it is a spacious plot and this could therefore change at the

Reserved Matters stage. Nevertheless, I consider the appeal site would constitute infill development as it is located in a gap between two dwellings fronting onto the highway.

7. Policy S8.2(v) of the adopted Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) identifies Perthy as part of a Community Cluster where development by infilling may be acceptable on suitable sites. Notwithstanding that the appeal site is located to the north of a disused railway line and is accessed via a bridge its location would comply with Policy S8.2(v) in this regard.
8. The Council has drawn my attention to an appeal at Chapel House, Perthy where the distance between the appeal site and built development was raised. However, as pointed out by the Appellant, the site was not considered by the Inspector to be infill and therefore didn't accord with Policy S8.2(v). Whilst there is a gap between the cluster within which the appeal site is located and built development to the south, this is not uncharacteristic of the area. Furthermore, this is not a requirement of Policy S8.2(v). Nor does the policy require the cluster to be of any particular size to justify it as a suitable location for infill development.
9. I acknowledge that the need for additional housing within the Community Cluster is not compelling by virtue of a number of recent planning permissions. However, since the appeal site would be in compliance with Policy S8.2(v) I see no reason to withhold planning permission on this basis. In the absence of conflict with Policy S8.2(v) policies seeking to control development in open countryside would not apply. Thus there would be no conflict with Policies CS5 of the Shropshire Local Development Framework Core Adopted Core Strategy (2011) and MD7a of the SAMDev which both seek to restrict housing in open countryside.

### **Other Matters**

10. Since the application is in outline, matters relating to sustainable design, as required by Policies MD2 of the SAMDev and CS6 of the Core Strategy, can be secured at the reserved matters stage.
11. I note concerns raised by interested parties regarding the effect of the proposal on the character of the area and privacy of neighbouring properties. However, given the infill location of the site and the size of the plot it would be possible to design the layout to prevent adverse effects from occurring.
12. Whilst concerns have been raised regarding highway safety it has been demonstrated that adequate visibility splays can be achieved. Furthermore, no objection has been raised by the Highways Department. I note that conditions are recommended by the Council in relation to access, gates and parking. However, these are all matters which would be dealt with at reserved matters stage and I do not consider such conditions to be necessary at outline stage.
13. I also note concerns raised regarding the impact on water supplies and drainage. Whilst these are matters which would be dealt with through building regulations the latter may influence the precise location of the dwelling and should therefore be secured via condition.
14. Whilst it's likely that Public Footpath No 11 would be affected by the development this would be a matter for the appellant to address via section



257 of the Town and Country Planning Act and is outside the scope of this appeal.

### **Conditions**

15. I have considered the conditions put forward by the Council and other parties which I have considered against advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for consistency, clarity and omitted others.
16. Since the application is in outline I have included conditions relating to the submission and timing of reserved matters applications and the commencement of development. I have not included conditions to secure details which would be secured at the reserved matters stage including materials, landscaping and matters relating to access.
17. As detailed above I have included a condition to secure drainage details in the interests of safeguarding the living conditions of the neighbouring properties and host dwelling. I have also included a condition to secure details of lighting to minimise disturbance to bats. I have considered the conditions proposed to restrict permitted development rights, however, I am not persuaded that exceptional circumstances exist, as set out in Planning Guidance.

### **Conclusion**

18. For the reasons given above, and having regard to all matters raised, the appeal is allowed subject to the conditions set out in the schedule below.

*Martha Savage*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the Location Plan and Sketch Site Plan but only in respect of those matters not reserved for final approval.
- 5) The development shall not begin until a detailed foul and surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify the location of existing and proposed drainage fields. The scheme shall be implemented as approved prior to first occupation of the dwellings.
- 6) The makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting and shall include:
  - 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - 1 artificial nest, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design) or starlings (42mm hole, starling specific).

Prior to first occupation of the dwelling the boxes shall be erected in accordance with the approved details and shall be thereafter retained.
- 7) 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 or sensitive features, e.g. bat and bird boxes. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Bats and Lighting in the UK guidance. The development shall be carried out in accordance with the approved details and thereafter retained.



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## Appeal Decision

Site visit made on 2 October 2018

**by M Savage BSc (Hons) MCD MRTPI**

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

**Decision date: 31 October 2018**

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**Appeal Ref: APP/L3245/W/18/3205834**

**Land to the west of Bridgewater Close, Harmer Hill, Shropshire SY4 3DZ**

- 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 and Mrs Gregory against the decision of Shropshire Council.
  - The application Ref 17/05911/FUL, dated 6 December 2017, was refused by notice dated 10 May 2018.
  - The development proposed is described as 'new detached 2 storey dwelling, redesigned on existing foundations.'
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached two storey dwelling, in accordance with the terms of the application, Ref 17/05911/FUL, dated 6 December 2017, subject to the conditions set out in the attached schedule.

### Procedural Matter

2. Since only a postcode was provided on the application form I have taken the rest of the address of the appeal site to be that stated on the Council's decision notice.

### Main Issue

3. Whether the appeal site would be an appropriate location for the proposed development having regard to local and national policy.

### Reasons

4. The appeal site is a triangular plot of land accessed off a track which serves a small number of properties. The land rises up towards the settlement of Harmer Hill and is separated from the rear gardens of Bridgewater Close by mature hedgerows. The site is bound to the east and north by mature trees and hedgerows.
5. Significantly, planning permission 14/02483/FUL was granted on the site for the erection of one dwelling in 2014 and has been commenced with the foundations of the house having been constructed. I note that the planning permission was not lawfully implemented and has therefore lapsed. However, the fact that the Council has previously granted permission on the site is an important consideration.

6. From the evidence before me, it is not clear why the Council has reached a different conclusion in respect of this application. Whilst the Site Allocations and Management of Development (SAMDev) Plan (2015) has been adopted since planning permission was granted in 2014, weight was given to the emerging plan. The decision made then by the Council was on the basis that the site was directly adjacent to the existing and proposed development boundary.
7. The site is just outside the development boundary and is therefore technically in open countryside. However, its close proximity to Harmer Hill and relationship with existing dwellings mean it would not be an isolated dwelling. Its development would therefore not be in conflict with paragraph 79 of the National Planning Policy Framework (2018).
8. I note the modest benefits that development of the site would make to local housing supply and in the absence of harm conclude that the proposal would deliver social benefits through the provision of an additional dwelling. I acknowledge that there would be conflict with Policy S17.2(ii) which seeks to direct new development to within development boundaries of Myddle and Harmer Hill. However, due to its edge of settlement location the facilities of Harmer Hill would be easily accessible by foot. As such, I consider the policy conflict would be minor, and the general objective of Policy CS4 of the Shropshire Local Development Framework Adopted Core Strategy 2011 ('the Core Strategy') to enable rural communities to become more sustainable, would be met.
9. Taking all of the above into consideration, I conclude that the appeal site would be an appropriate location for the proposed development and would comply with the overall strategic approach set out within the Core Strategy. In particular, Policies CS1 and CS5 which seek to, in part, secure rural rebalance by focusing new development in community clusters, thereby contributing to the social and economic vitality.

### **Conditions**

10. The conditions set out in the schedule are based upon those suggested by the Council with minor wording changes where necessary, in the interests of precision and clarity. I have imposed the standard three year time limit and a condition specifying the relevant drawings as this provides certainty.
11. In the interests of preserving the character and appearance of the area I have included conditions regarding external materials and landscaping. To ensure that the development does not impede the flow of traffic on the track I have included a condition relating to parking and turning.
12. Notwithstanding I have no evidence before me that the development would have an adverse effect on bats, given that the site backs on to open countryside I agree that it would be reasonable to secure details of external lighting via condition.
13. In the interests of the living conditions of neighbouring properties I have included a condition restricting the hours of construction. I have also imposed a condition regarding foul and surface water in the interests of the living conditions of the proposed dwelling and neighbouring properties.

14. I note that the Council has advised that the development would need to provide an affordable housing contribution. However, in light of the advice contained within the Written Ministerial Statement *Small-scale developers* the proposal does not meet the relevant threshold, nor does it meet the definition of a rural exception site. Therefore a contribution for affordable housing may not be sought.

### **Conclusion**

15. For the reasons given above, and having regard to all matters raised, the appeal is allowed.

*M Savage*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 17002/01, 17002/02, 17002/03A, .
- 3) No development of the building shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) The development hereby permitted shall not be brought into use until the areas shown on the proposed site plan drawing no. 17002/03A for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.
- 5) No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
  - planting plans
  - written specifications (including cultivation and other operations associated with plant and grass establishment)
  - schedules of plants, noting species, planting sizes and proposed numbers/densities and
  - a timetable for implementation.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) 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 implemented in full before the development is occupied.
- 7) Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

- 8) No construction work shall take place outside of the following hours:  
Monday to Friday 07:30 - 18:00  
Saturday 08:00 - 13:00.  
No works shall take place on Sundays and bank holidays.

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## Appeal Decision

Site visit made on 26 September 2018

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

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

**Decision date: 16<sup>th</sup> October 2018**

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**Appeal Ref: APP/L3245/D/18/3207144**

**Walnut Cottage, 4 Pant Glas, Oswestry SY10 7HS**

- 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 Mrs Heather Bond against the decision of Shropshire Council.
  - The application Ref 18/01491/FUL, dated 27 March 2018, was refused by notice dated 15 June 2018.
  - The development proposed is the removal of a timber shed and the erection of a garage and study with ancillary site works.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the appeal was lodged the revised National Planning Policy Framework (the Framework) has been published but does not raise any additional matters.

### Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the host property and the surrounding area.

### Reasons

4. The proposed development includes the demolition of a single storey timber shed and its replacement by a 2-storey outbuilding sited to the side of a 2-storey semi-detached dwelling. The adjoining dwelling, 5 Pant Glas, has a greater width and a single storey pitched roof garage as a side addition.
5. By reason of the difference in ground level, the dwelling and the shed are elevated above the road and are clearly visible across an open and landscaped garden. The proposed outbuilding would be of a similar width to the shed and it would have a lower ridge height than the host property.
6. The property is situated within the extensive Pant Glas and Brogyntyn Park Conservation Area where there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. In the absence of a Heritage Impact Assessment, there is limited information concerning the significance of this designated heritage asset.
7. From what was observed during the site visit, the Conservation Area is characterised by undulating verdant and open countryside which also includes

Brogyntyn Hall and Park and both individual and small groups of buildings. The significance of the Conservation Area appears to be the historical relationship between Brogyntyn Hall and the surrounding land and buildings, including simply designed dwellings which may have housed estate workers. The appeal property is one of a small number of residential properties which comprise Pant Glas which are located within a valley.

8. The Council claim that the host property is a non-designated heritage asset. The reason for this designation is not explained in any detail other than being an historic cottage. The property and these semi-detached dwellings do, however, possess a simple design and appearance when viewed from the road and their external materials are common within the Conservation Area. Although of timber construction, because of its size and relationship to the host property the existing shed is a neutral element in the appearance of both the streetscene and Conservation Area.
9. Within the Conservation Area there are examples of outbuildings and extensions and alterations to properties. However, it was observed that the outbuildings are single storey in height with pitched roofs. The height of the outbuildings generally does not exceed the eaves of the host properties and are subservient in scale. The choice of materials and roof pitches respect their host properties. These characteristics apply to the garage at No. 5.
10. By contrast, there would be only a limited differential between the ridge heights of the host property and the appeal scheme. As the Council has identified, the proposed development would not be subservient to the host property and would visually compete with this simply designed 2-storey dwelling when viewed from the road. Further, the design of the proposed outbuilding includes a roof with a pitch that would fail to respect the host property. The design of the appeal scheme would not be appropriate to its context and would be more conspicuous from the road than the existing shed.
11. Although not alone a reason for this appeal to fail because of the existing shed's timber construction, the use of cedar boarding as a facing material at first floor level was not observed to be a common material for other buildings within the Conservation Area. This choice of external material adds to the harm.
12. As has been identified, the existing shed is a neutral feature within the streetscene and Conservation Area but because of its height and design the proposed outbuilding would not result in a high quality of design that would be a material improvement to the current situation. The proposed development would fail to preserve the character and appearance of the Conservation Area. Although less than substantial harm would be caused to the significance of the designated heritage asset, the degree of harm is sufficient to outweigh the benefits of the appeal scheme, including the provision of additional accommodation for the appellant and the removal of the timber shed. The harm which has been identified would equally be detrimental to the property's characteristics which have been identified as contributing to its significance as a non-designated heritage asset.
13. Accordingly, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the host property and the surrounding area and, as such, it would conflict with Policy CS6 of the Core Strategy (CS) and Policy MD2 of the Site Allocations and Management of

Development Plan (SAMDev). Amongst other matters these policies require development to be of a high quality of design and to protect, preserve and enhance built environments by considering local context.

14. No specific conflict with the Council's *Type and Affordability of Housing Supplementary Planning Document* has been identified because the design requirements for outbuildings relate to those erected on rural exceptions sites. Further, CS Policy CS5 does not include specific criteria for outbuildings within the countryside and no specific conflict has, therefore, been identified. However, for the reasons given and taking into account all other matters, it is concluded that this appeal should be dismissed.

*D J Barnes*

INSPECTOR

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